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सं. 5] नई दिल्ली, जनवरी 27—फरवरी 2, 2008, शनिवार/माघ 7—माघ 13, 1929
No. 5] NEW DELHI, JANUARY 27—FEBRUARY 2, 2008, SATURDAY/MAGHA 7—MAGHA 13, 1929

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

उत्तर पूर्वी क्षेत्र विकास मंत्रालय
शुद्धि-पत्र

नई दिल्ली, 25 जनवरी, 2008

का. आ. 192.—इस मंत्रालय के दिनांक 21-6-2006 के समसंख्यक अधिसूचना के संदर्भ में ध्यान आकर्षित किया जाता है कि 'सलाहकार (योजना)' शब्दों के स्थान पर 'योजना सलाहकार' पढ़ा जाए।

2. अधिसूचना की अन्य सभी शर्तों में कोई परिवर्तन नहीं है।

[सं. 1/3/2006-प्रशा.]

अशोलि चलाई, उप सचिव

MINISTRY OF DEVELOPMENT OF NORTH
EASTERN REGION
CORRIGENDUM

New Delhi, the 25th January, 2008

S. O. 192.—Reference is invited to this Ministry's Notification of even No. dated 21-6-2006. The words 'Advisor (Planning)' may be substituted with the words 'Planning Adviser'.

2. All the other terms & conditions in the Notification shall remain unchanged.

[No. 1/3/2006-Admn.]

ASHOLI CHALAI, Dy. Secy.

कार्यालय, मुख्य आयकर आयुक्त, जयपुर

शुद्धि-पत्र

जयपुर, 12 दिसम्बर, 2007

का. आ. 193.—आयकर अधिनियम, 1961 की धारा 10 के खण्ड (23 सी) के उपखण्ड (vi) के तहत अधिसूचना सं. 4/2007-08 दिनांक 24-11-07 के द्वारा "टेक्नोक्रेट्स एण्ड मैनेजर्स सोसायटी फॉर एडवान्स लर्निंग एण्ड ग्रामोथान, जयपुर" को स्वीकृति दी गई थी। अधिसूचना के पैरा 1 की लाइन 5 में निर्धारण वर्ष 2005-06 एवं 2006-07 के स्थान पर "निर्धारण वर्ष 2005-06 एवं आगे के लिए" पढ़ा जाये।

[क्रमांक:मुआआ/अआआ/(समन्वय)/
जय/10(23सी)(vi)/07-08/4075]

एस. सी. कपिल, मुख्य आयकर आयुक्त

OFFICE OF THE CHIEF COMMISSIONER OF
INCOME TAX

CORRIGENDUM

Jaipur, the 12th December, 2007

S. O. 193.—In Notification No. 04/2007-08 dated 24-10-2007 vide which "Technocrats & Managers Society

for Advanced Learning & Gramothan, Jaipur" was approved for the purpose of sub-clause(vi) of clause (23C) of Section 10 of the Income-tax Act, 1961, the assessment years in Para 1, line 5 may be read as 'A.Y. 2005-06 and onwards' instead of A.Y. 2005-06 and 2006-07.

[No. CCIT/JPR/Addl.CIT(Coord.)/10(23C)(vi)/2007-08/4075]
S. C. KAPIL, Chief Commissioner of Income-tax

जयपुर, 21 जनवरी, 2008

सं. 12/2007-08

का. आ. 194.—आयकर नियम, 1962 के नियम 2 सी ए के साथ पठनीय आयकर अधिनियम, 1961 (1961 का 43 वां) की धारा 10 के खण्ड (23सी) की उपधारा (vi) के द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मुख्य आयकर आयुक्त, जयपुर एतद्वारा निर्धारण वर्ष 2007-08 के लिए कथित धारा के उद्देश्य से "नेशनल सोसायटी फॉर इंजिनियरिंग रिसर्च एण्ड डवलपमेंट, जयपुर" को स्वीकृति देते हैं।

बशर्ते कि समिति आयकर नियम 1962 के नियम 2 सी ए के साथ पठनीय आयकर अधिनियम, 1961 की धारा 10 के उपखण्ड (23 सी) की उपधारा (vi) के प्रावधानों के अनुरूप कार्य करे।

[क्रमांक:मुआआ/अआआ/(समन्वय)/जय/10(23सी)(vi)/07-08/6338]
एस. सी. कपिल, मुख्य आयकर आयुक्त

Jaipur, the 21st January, 2008

No. 12/2007-08

S. O. 194.—In exercise of the powers conferred by sub-clause(vi) of clause (23C) of Section 10 of the Income-tax Act, 1961(43 of 1961) read with rule 2CA of the Income-tax Rules, 1962 the Chief Commissioner of Income-tax, Jaipur hereby approves "National Society for Engineering Research & Dvelopment" for the purpose of said Section for the A. Y. 2007-08.

Provided that the Society conforms to and complies with the provisions of sub-clause(vi) of clause (23C) of Section 10 of the Income-tax Act, 1961 read with rule 2CA of the Income-tax Rules, 1962.

[No. CCIT/JPR/Addl.CIT(Coord.)/10(23C)(vi)/2007-08/6338]
S. C. KAPIL, Chief Commissioner of Income-tax

जयपुर, 24 जनवरी, 2008

सं. 13/2007-08

का. आ. 195.—आयकर नियम, 1962 के नियम 2 सी ए के साथ पठनीय आयकर अधिनियम, 1961 (1961 का 43 वां) की धारा 10 के खण्ड (23सी) की उपधारा (vi) के द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मुख्य आयकर आयुक्त, जयपुर एतद्वारा निर्धारण वर्ष 2007-08 एवं आगे के लिए कथित धारा के उद्देश्य से "श्री मोदी शिक्षण संस्थान, जयपुर" को स्वीकृति देते हैं।

बशर्ते कि समिति आयकर नियम 1962 के नियम 2 सी ए के साथ पठनीय आयकर अधिनियम, 1961 की धारा 10 के उपखण्ड (23 सी) की उपधारा (vi) के प्रावधानों के अनुरूप कार्य करे।

[क्रमांक:मुआआ/अआआ/(समन्वय)/जय/10(23सी)(vi)/07-08/6418]
एस. सी. कपिल, मुख्य आयकर आयुक्त

Jaipur, the 24th January, 2008

No. 13/2007-08

S. O. 195.—In exercise of the powers conferred by sub-clause(vi) of clause (23C) of Section 10 of the Income-tax Act, 1961(43 of 1961) read with rule 2CA of the Income-tax Rules, 1962 the Chief Commissioner of Income-tax, Jaipur hereby approves "Shri Modi Shikshan Sansthan, Jaipur" for the purpose of said Section for the A. Y. 2007-08 and onwards.

Provided that the Society conforms to and complies with the provisions of sub-clause (vi) of clause (23C) of Section 10 of the Income-tax Act, 1961 read with rule 2CA of the Income-tax Rules, 1962.

[No. CCIT/JPR/Addl.CIT(Coord.)/10(23C)(vi)/2007-08/6418]
S. C. KAPIL, Chief Commissioner of Income-tax

शुद्धि-पत्र

जयपुर, 24 जनवरी, 2008

का. आ. 196.—आयकर अधिनियम, 1961 की धारा 10 के खण्ड (23 सी) के उपखण्ड (vi) के तहत अधिसूचना सं. 10/2007-08 दिनांक 28-12-07 के द्वारा "सेंट विलफ्रैड एजुकेशन सोसायटी, जयपुर" को स्वीकृति दी गई थी। अधिसूचना के पैरा 1 की लाईन 4 एवं 5 में निर्धारण वर्ष 2007-08 के स्थान पर "निर्धारण वर्ष 2007-08 एवं आगे के लिए" पढ़ा जाये।

[क्रमांक:मुआआ/अआआ/(समन्वय)/जय/10(23सी)(vi)/07-08/6410]
एस. सी. कपिल, मुख्य आयकर आयुक्त

CORRIGENDUM

Jaipur, the 24th January, 2008

S. O. 196.—In Notification No. 10/2007-08 dated 28-12-2007 vide which "St. Wilfred Education Society, Jaipur, Jaipur" was approved for the purpose of sub-clause (vi) of clause (23C) of Section 10 of the Income-tax Act, 1961, the assessment years in Para 1, line 4 may be read as 'A.Y. 2007-08 and onwards' instead of A.Y. 2007-08.

[No. CCIT/JPR/Addl.CIT(Coord.)/10(23C)(vi)/2007-08/6410]
S. C. KAPIL, Chief Commissioner of Income-tax

शुद्धि-पत्र

जयपुर, 24 जनवरी, 2008

का. आ. 197.—आयकर अधिनियम, 1961 की धारा 10 के खण्ड (23 सी) के उपखण्ड (vi) के तहत अधिसूचना सं. 12/2007-08 दिनांक 21-1-08 के द्वारा "नेशनल सोसायटी फॉर

इंजिनियरिंग रिसर्च एण्ड डेवलपमेंट, जयपुर" को स्वीकृति दी गई थी। अधिसूचना के पैरा 1 की लाईन 4 में निर्धारण वर्ष 2007-08 के स्थान पर "निर्धारण वर्ष 2007-08 एवं आगे के लिए" पढ़ा जाये।

[क्रमांक:मुआआ/अआआ/(समन्वय)/

जय/10(23सी)(vi)/07-08/6407]

एस. सी. कपिल, मुख्य आयकर आयुक्त

CORRIGENDUM

Jaipur, the 24th January, 2008

S. O. 197.— In Notification No. 12/2007-08 dated 21-1-2008 vide which "National Society for Engineering Research & Development, Jaipur" was approved for the purpose of sub-clause (vi) of clause (23C) of Section 10 of the Income-tax Act, 1961, the assessment years in Para 1, line 4 and 5 may be read as 'A.Y. 2007-2008 and onwards' instead of A.Y. 2007-2008.

[No. CCIT/JPR/Addl.CIT (Coord.)

10 (23C)(vi)/2007-08/6407]

S. C. KAPIL, Chief Commissioner of Income-tax, Jaipur

वित्त मंत्रालय

(राजस्व विभाग)

(केन्द्रीय प्रत्यक्ष कर बोर्ड)

नई दिल्ली, 23 जनवरी, 2008

का. आ. 198.—सर्वसाधारण की जानकारी के लिए एतद्वारा यह अधिसूचित किया जाता है कि केन्द्र सरकार द्वारा आयकर नियमावली, 1962 (उक्त नियमावली) के नियम 5ग और 5ड के साथ पठित आयकर अधिनियम, 1961 (उक्त अधिनियम) की धारा 35 की उपधारा (1) के खंड (ii) के प्रयोजनार्थ 1-4-2006 से संगठन इंडियन इंस्टीट्यूट ऑफ टेक्नालोजी बोम्बे, मुम्बई को निम्नलिखित शर्तों के अधीन आंशिक रूप से संलग्न 'विश्वविद्यालय' की श्रेणी में अनुमोदित किया गया है, अर्थात:-

- (i) अनुमोदित संगठन को प्रदत्त राशि का उपयोग वैज्ञानिक अनुसंधान के लिए किया जाएगा ;
- (ii) अनुमोदित संगठन अपने संकाय सदस्यों अथवा अपने नामीकृत छात्रों के माध्यम से वैज्ञानिक अनुसंधान करेगा ;
- (iii) अनुमोदित संगठन बही-खाता रखेगा तथा उक्त अधिनियम की धारा 288 की उप धारा (2) के स्पटीकरण में यथा परिभाषित किसी लेखाकार से अपनी खाता-बही की लेखा परीक्षा कराएगा और उक्त अधिनियम की धारा 139 की उप धारा (1) के अंतर्गत आय विवरणी प्रस्तुत करने की नियत तिथि तक ऐसे लेखाकार द्वारा विधिवत सत्यापित एवं हस्ताक्षरित लेखा परीक्षा रिपोर्ट मामले में क्षेत्राधिकार रखने वाले आयकर आयुक्त अथवा आयकर निदेशक को प्रस्तुत करेगा ;
- (iv) अनुमोदित संगठन वैज्ञानिक अनुसंधान के लिए प्राप्त दान तथा प्रयुक्त राशि का अलग विवरण रखेगा और उपर्युक्त लेखा परीक्षा रिपोर्ट के साथ लेखा परीक्षक द्वारा विधिवत सत्यापित विवरण की प्रति प्रस्तुत करेगा।

2. केन्द्र सरकार यह अनुमोदन वापिस ले लेगी यदि अनुमोदित संगठन :-

- (क) पैराग्राफ 1 के उप-पैराग्राफ (iii) में उल्लिखित लेखा बही नहीं रखेगा; अथवा
- (ख) पैराग्राफ 1 के उप-पैराग्राफ (iii) में उल्लिखित अपनी लेखा परीक्षा रिपोर्ट प्रस्तुत नहीं करेगा ; अथवा
- (ग) पैराग्राफ 1 के उप-पैराग्राफ (iv) में उल्लिखित वैज्ञानिक अनुसंधान के लिए प्राप्त एवं प्रयुक्त दान का अपना विवरण प्रस्तुत नहीं करेगा; अथवा
- (घ) अपना अनुसंधान कार्य करना बंद कर देगा अथवा इसके अनुसंधान कार्य को जायज नहीं पाया जाएगा ; अथवा
- (ङ) उक्त नियमावली के नियम 5ग और 5ड के साथ पठित उक्त अधिनियम की धारा 35 की उपधारा (1) के खंड (ii) के प्रावधानों के अनुरूप नहीं होगा तथा उनका पालन नहीं करेगा।

[अधिसूचना सं. 12/2008/फा. सं. 203/11/2007-आ.क.नि. II]

सुरेन्द्र पाल, अवर सचिव

MINISTRY OF FINANCE

(Department of Revenue)

(CENTRAL BOARD OF DIRECT TAXES)

New Delhi, the 23rd January, 2008

S. O. 198.— It is hereby notified for general information that origination Indian Institute of Technology Bombay, Mumbai has been approved by the Central Government for the purpose of clause (ii) of sub-section (1) of Section 35 of the Income-tax 1961 (said Act), read with Rules 5C and 5E of the Income-tax Rules, 1962 (said Rules); with effect from 1-4-2006 in the category of 'University', partly engaged in research activities subject to the following conditions, namely:-

- (i) The sums paid to the approved organization shall be utilized for scientific research;
- (ii) The approved organization shall carry out scientific research through its faculty members or its enrolled students;
- (iii) The approved organization shall maintain separate books of accounts in respect of the sums received by it for scientific research, reflect therein the amounts used for carrying out research, get such books audited by accountant as defined in the explanation to sub-section (2) of Section 288 of the said Act and furnish the report of such audit duly signed and verified by such accountant to the Commissioner of Income-tax or the Director of Income-tax having jurisdiction over the case, by the due date of furnishing the return of income under sub-section (1) of Section 139 of the said Act;

- (iv) The approved organization shall maintain a separate statement of donations received and amounts applied for scientific research and a copy of such statement duly certified by the auditor shall accompany the report of audit referred to above.

2. The Central Government shall withdraw the approval if the approved organization:-

- (a) fails to maintain separate books of accounts referred to in sub-paragraph (iii) of paragraph 1; or
- (b) fails to furnish its audit report referred to in sub-paragraph (iii) of paragraph 1; or
- (c) fails to furnish its statement of the donations received and sums applied for scientific research referred to in sub-paragraph (iv) of paragraph 1; or
- (d) ceases to carry on its research activities or its research activities are not found to be genuine; or
- (e) ceases to conform to and comply with the provisions of clause (ii) of sub-section (1) of Section 35 of the said Act read with rules 5C and 5E of the said Rules.

[Notification No. 12/2008/F. No. 203/11/2007/ITA-II]

SURENDER PAL, Under Secy.

नई दिल्ली, 24 जनवरी, 2008

क्र. आ. 199.—सर्वसाधारण की जानकारी के लिए एतद्वारा यह अधिसूचित किया जाता है कि केन्द्र सरकार द्वारा आयकर नियमावली, 1962 (उक्त नियमावली) के नियम 5ग और 5ड के साथ पठित आयकर अधिनियम, 1961 (उक्त अधिनियम) की धारा 35 की उपधारा (1) के खंड (ii) के प्रयोजनार्थ 1-4-2003 से संगठन कैंसर सेन्टर वेल्फेयर होम एण्ड रिसर्च इंस्टीट्यूट, कोलकाता को निम्नलिखित शर्तों के अधीन आंशिक रूप से अनुसंधान कार्यकलापों में लगी 'अन्य संस्था' की श्रेणी में अनुमोदित किया गया है, अर्थात:-

(i) अनुमोदित संगठन को प्रदत्त राशि का उपयोग वैज्ञानिक अनुसंधान के लिए किया जाएगा ;

(ii) अनुमोदित संगठन अपने संकाय सदस्यों अथवा अपने नामांकित छात्रों के माध्यम से वैज्ञानिक अनुसंधान करेगा ;

(iii) अनुमोदित संगठन वैज्ञानिक अनुसंधान के लिए इसके द्वारा प्राप्त राशि के संबंध में अलग खाता बही रखेगा जिसमें अनुसंधान करने के लिए प्रयुक्त राशि दर्शाई गई हो, उक्त अधिनियम की धारा 288 की उप धारा (2) के स्पष्टीकरण में यथा परिभाषित किसी लेखाकार से अपनी खाता-बही की लेखा परीक्षा कराएगा और उक्त अधिनियम की धारा 139 की उप धारा (1) के अंतर्गत आय विवरणी प्रस्तुत करने की नियम तिथि तक ऐसे लेखाकार द्वारा विधिवत सत्यापित एवं हस्ताक्षरित लेखा परीक्षा रिपोर्ट मामले में क्षेत्राधिकार

रखने वाले आयकर आयुक्त अथवा आयकर निदेशक को प्रस्तुत करेगा ।

(iv) अनुमोदित संगठन वैज्ञानिक अनुसंधान के लिए प्राप्त दान तथा प्रयुक्त राशि का अलग विवरण रखेगा और उपर्युक्त लेखा परीक्षा रिपोर्ट के साथ लेखा परीक्षक द्वारा विधिवत सत्यापित विवरण की प्रति प्रस्तुत करेगा ।

2. केन्द्र सरकार यह अनुमोदन वापिस ले लेगी यदि अनुमोदित संगठन :-

(क) पैराग्राफ 1 के उप-पैराग्राफ (iii) में उल्लिखित लेखा बही नहीं रखेगा; अथवा

(ख) पैराग्राफ 1 के उप-पैराग्राफ (iii) में उल्लिखित अपनी लेखा परीक्षा रिपोर्ट प्रस्तुत नहीं करेगा; अथवा

(ग) पैराग्राफ 1 के उप-पैराग्राफ (iv) में उल्लिखित वैज्ञानिक अनुसंधान के लिए प्राप्त एवं प्रयुक्त दान का अपना विवरण प्रस्तुत नहीं करेगा; अथवा

(घ) अपना अनुसंधान कार्य करना बंद कर देगा अथवा इसके अनुसंधान कार्य को जायज नहीं पाया जाएगा; अथवा

(ङ) उक्त नियमावली के नियम 5ग और 5ड के साथ पठित उक्त अधिनियम की धारा 35 की उपधारा (1) के खंड (ii) के प्रावधानों के अनुरूप नहीं होगा तथा उनका पालन नहीं करेगा ।

[अधिसूचना सं. 14/2008/फा. सं. 203/84/2007-आ.क.नि. II]

सुरेन्द्र पाल, अवर सचिव

New Delhi, the 24th January, 2008

S. O. 199.—It is hereby notified for general information that organization Cancer Centre Welfare Home and Research Institute, Kolkata has been approved by the Central Government for the purpose of clause (ii) of sub-section (1) of Section 35 of the Income-tax 1961 (said Act), read with Rules 5C and 5E of the Income-tax Rules, 1962 (said Rules), with effect from 1-4-2003 in the category of 'other Institution', partly engaged in research activities subject to the following conditions, namely:-

(i) The sums paid to the approved organization shall be utilized for scientific research;

(ii) The approved organization shall carry out scientific research through its faculty members or its enrolled students;

(iii) The approved organization shall maintain separate books of accounts in respect of the sums received by it for scientific research, reflect therein the amounts used for carrying out research, get such books audited by accountant as defined in the explanation to sub-section (2) of Section 288 of the said Act and furnish the report of such audit duly signed and verified by such accountant to the Commissioner of Income-tax or the Director of Income-tax having jurisdiction over the case,

by the due date of furnishing the return of income under sub-section (1) of Section 139 of the said Act;

- (iv) The approved organization shall maintain a separate statement of donations received and amounts applied for scientific research and a copy of such statement duly certified by the auditor shall accompany the report of audit referred to above.

2. The Central Government shall withdraw the approval if the approved organization:-

- fails to maintain separate books of accounts referred to in sub-paragraph (iii) of paragraph 1; or
- fails to furnish its audit report referred to in sub-paragraph (iii) of paragraph 1; or
- fails to furnish its statement of the donations received and sums applied for scientific research referred to in sub-paragraph (iv) of paragraph 1; or
- ceases to carry on its research activities or its research activities are not found to be genuine; or
- ceases to conform to and comply with the provisions of clause (ii) of sub-section (1) of Section 35 of the said Act Read with Rules 5C and 5E of the said Rules.

[Notification No. 14/2008/F. No. 203/84/2007/ITA-II]

SURENDER PAL, Under Secy.

नई दिल्ली, 1 फरवरी, 2008

का. आ. 200.—सर्वसाधारण की जानकारी के लिए एतद्वारा यह अधिसूचित किया जाता है कि केन्द्र सरकार द्वारा आयकर नियमावली, 1962 (उक्त नियमावली) के नियम 5ग और 5ड के साथ पठित आयकर अधिनियम, 1961 (उक्त अधिनियम) की धारा 35 की उपधारा (1) के खंड (ii) के प्रयोजनार्थ 1-4-2007 से संगठन बायोवेद रिसर्च सोसायटी, इलाहाबाद (उत्तर प्रदेश) को निम्नलिखित शर्तों के अधीन आंशिक रूप से अनुसंधान कार्यकलापों में लगी 'अन्य संस्था' की श्रेणी में अनुमोदित किया गया है, नामतः:-

- अनुमोदित संगठन को प्रदत्त राशि का उपयोग वैज्ञानिक अनुसंधान के लिए किया जाएगा ;
- अनुमोदित संगठन अपने संकाय सदस्यों अथवा अपने नामांकित छात्रों के माध्यम से वैज्ञानिक अनुसंधान करेगा;
- अनुमोदित संगठन वैज्ञानिक अनुसंधान के लिए इसके द्वारा प्राप्त राशि के संबंध में अलग खाता बही रखेगा जिसमें अनुसंधान करने के लिए प्रयुक्त राशि दर्शाई गई हो, उक्त अधिनियम की धारा 288 की उपधारा (2) के स्पष्टीकरण में यथा परिभाषित किसी लेखाकार से अपनी खाता-बही की लेखा परीक्षा कराएगा और उक्त अधिनियम की धारा 139 की उपधारा (1) के अंतर्गत

आय विवरणी प्रस्तुत करने की नियत तिथि तक ऐसे लेखाकार द्वारा विधिवत सत्यापित एवं हस्ताक्षरित लेखा परीक्षा रिपोर्ट मामले में क्षेत्राधिकार रखने वाले आयकर आयुक्त अथवा आयकर निदेशक को प्रस्तुत करेगा ;

- (iv) अनुमोदित संगठन वैज्ञानिक अनुसंधान के लिए प्राप्त दान तथा प्रयुक्त राशि का अलग विवरण रखेगा और उपर्युक्त लेखा परीक्षा रिपोर्ट के साथ लेखा परीक्षक द्वारा विधिवत सत्यापित विवरण की प्रति प्रस्तुत करेगा ।

2. केन्द्र सरकार यह अनुमोदन वापिस ले लेगी यदि अनुमोदित संगठन :-

- पैराग्राफ 1 के उप-पैराग्राफ (iii) में उल्लिखित पृथक लेखा बही नहीं रखेगा; अथवा
- पैराग्राफ 1 के उप-पैराग्राफ (iii) में उल्लिखित अपनी लेखा परीक्षा रिपोर्ट प्रस्तुत नहीं करेगा ; अथवा
- पैराग्राफ 1 के उप-पैराग्राफ (iv) में उल्लिखित वैज्ञानिक अनुसंधान के लिए प्राप्त एवं प्रयुक्त दान का अपना विवरण प्रस्तुत नहीं करेगा; अथवा
- अपना अनुसंधान कार्य करना बंद कर देगा अथवा इसके अनुसंधान कार्य को जायज नहीं पाया जाएगा ; अथवा
- उक्त नियमावली के नियम 5ग और 5ड के साथ पठित उक्त अधिनियम की धारा 35 की उपधारा (1) के खंड (ii) के प्रावधानों के अनुरूप नहीं होगा तथा उनका पालन नहीं करेगा ।

[अधिसूचना सं. 15/2008/फा. सं. 203/30/2007-आ.क.नि. II]

सुरेन्द्र पाल, अवर सचिव

New Delhi, the 1st February, 2008

S. O. 200.— It is hereby notified for general information that origination BIOVED Resrch Society, Allahabad (U.P.) has been approved by the Central Government for the purpose of clause (ii) of sub-section (1) of Section 35 of the Income-tax 1961 (said Act), read with Rules 5C and 5E of the Income-tax Rules, 1962 (said Rules), with effect from 1-4-2007 in the category of 'other Institution', partly engaged in research activities subject to the following conditions, namely:-

- The sums paid to the approved organization shall be utilized for scientific research;
- The approved organization shall carry out scientific research through its faculty members or its enrolled students;
- The approved organization shall maintain separate books of accounts in respect of the sums received by it for scientific research, reflect therein the amounts used for carrying

out research, get such books audited by accounted as defined in the explanation to sub-section (2) of Section 288 of the said Act and furnish the report of such audit duly signed and verified by such accountant to the Commissioner of Income-tax or the Director of Income-tax having jurisdiction over the case, by the due date of furnishing the return of income under sub-section (1) of Section 139 of the said Act;

- (iv) The approved organization shall maintain a separate statement of donations received and amounts applied for scientific research and a copy of such statement duly certified by the auditor shall accompany the report of audit referred to above.

2. The Central Government shall withdraw the approval if the approved organization:-

- (a) fails to maintain separate book of accounts referred to in sub-paragraph (iii) of paragraph 1; or
- (b) fails to furnish its audit report referred to in sub-paragraph (iii) of paragraph 1; or
- (c) fails to furnish its statement of the donations received and sums applied for scientific research referred to in sub-paragraph (iv) of paragraph 1; or
- (d) ceases to carry on its research activities or its research activities are not found to be genuine; or
- (e) ceases to conform to and comply with the provisions of clause (ii) of sub-section (1) of Section 35 of the said Act read with Rules 5C and 5E of the said Rules.

[Notification No. 15/2008/F.No. 203/30/2007/ITA-II]

SURENDER PAL, Under Secy.

(वित्तीय सेवाएं विभाग)

नई दिल्ली, 24 जनवरी, 2008

ऋण सूचना कंपनी (विनियमन)

(कठिनाई निवारण) आदेश, 2008

का. आ. 201.—जबकि ऋण सूचना कंपनी (विनियमन) अधिनियम, 2005 (2005 का 30) (इसके बाद इसे "अधिनियम" कहा गया है) 14 दिसम्बर, 2006 को लागू हुआ था;

और जबकि अधिनियम की धारा 15 की उप-धारा (1) में निहित उपबंधों में अपेक्षित है कि इस अधिनियम के प्रारंभ होने पर प्रत्येक विद्यमान ऋण संस्था को ऐसे प्रारंभ से तीन महीने समाप्त होने से पहले कम से कम किसी एक ऋण सूचना कंपनी का सदस्य बनना होगा;

और जबकि धारा 15 की उप-धारा (1) में निहित उपबंधों में, ऋण संस्थाओं के लिए ऋण सूचना कंपनियों में से कम से कम ऐसी

किसी एक कंपनी चुनने पर विचार किया गया है जिसके वे सदस्य बन सकते हैं;

और जबकि अधिनियम के प्रारंभ होने पर, ऋण सूचना का व्यवसाय करने वाली केवल एक कंपनी विद्यमान है और उस कंपनी ने अधिनियम की धारा 4 के तहत पंजीकरण प्रमाण-पत्र के लिए आवेदन किया है;

और जबकि धारा 15 की उप-धारा (1) के तहत निर्धारित तीन महीने की समय-सीमा, 13 मार्च, 2007 को समाप्त हो गई थी;

और जबकि अभी तक किसी भी कंपनी ने ऋण सूचना का व्यवसाय प्रारंभ करने के लिए अधिनियम की धारा 5 के तहत पंजीकरण प्रमाण-पत्र के लिए आवेदन नहीं किया है;

और जबकि अधिनियम के उपबंधों को लागू करने के लिए पूर्वोक्त समय-सीमा को 14 मार्च, 2007 से 31 दिसम्बर, 2008 तक बढ़ाना आवश्यक हो गया है, ताकि ऋण संस्थाओं को ऋण सूचना कंपनियों में से अपनी पसंद की कम से कम ऐसी किसी एक कंपनी चुनने में आसानी हो, जिसके वे सदस्य बन सकें;

अतः अब केन्द्रीय सरकार ऋण सूचना कंपनी (विनियमन) अधिनियम, 2005 (2005 का 30) की धारा 35 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, एतद्वारा, निम्नलिखित आदेश देती है, नामतः

संक्षिप्त नाम एवं प्रारंभ

1. (1) इस आदेश को ऋण सूचना कंपनी (विनियमन) (कठिनाई निवारण) आदेश, 2008 कहा जाए।

(2) यह तत्काल प्रभाव से लागू होगा।

ऋण सूचना कंपनी का सदस्य बनने के लिए समय-सीमा

इस अधिनियम के प्रारंभ होने पर, विद्यमान ऋण संस्था, अधिनियम की धारा 15 की उप-धारा (1) के तहत दिनांक 31-12-2008 तक कम से कम एक ऋण सूचना कंपनी की सदस्य बनेगी।

[फा. सं. 7/67/2005-बी ओ ए]

डी. पी. भारद्वाज, उप सचिव

(Department of Financial Services)

New Delhi, the 24th January, 2008

**Credit Information Companies (Regulation)
(Removal of Difficulties) Order, 2008**

S.O. 201.—Whereas the Credit Information Companies (Regulation) Act, 2005 (30 of 2005) (hereinafter referred to as "the Act") came into force on 14th December, 2006;

And Whereas the provisions contained in sub-section (1) of Section 15 of the Act require every credit institution in existence on the commencement of the Act to become member of at least one credit information company before the expiry of three months from such commencement;

And Whereas the provisions contained in sub-Section (1) of Section 15 contemplate a choice to the credit

institutions amongst the credit information companies, in at least one of which they may become a member,

And Whereas on the commencement of the Act, only one company is in existence carrying on the business of credit information and which has applied for a certificate of registration under Section 4 of the Act;

And Whereas the time limit of three months prescribed under sub-section (1) of Section 15 had expired on 13th March, 2007;

And Whereas no company has so far been granted a certificate of registration under Section 5 of the Act to commence or carry on the business of credit information;

And Whereas it has become necessary for giving effect to the provisions of the Act to extend the aforesaid time limit from 14th March, 2007 to 31st December, 2008 in order to facilitate the credit institutions to exercise their choice amongst the credit information companies in at least one of which they may become a member;

Now, therefore, in exercise of the powers conferred by Section 35 of the Credit Information Companies (Regulation) Act, 2005 (30 of 2005), the Central Government hereby makes the following Order, namely:-

Short title and commencement

1. (1) This Order may be called the Credit Information Companies (Regulation) (Removal of Difficulties) Order, 2008

(2) It shall come into force with immediate effect.

Time limit for being member of a credit information company

A credit institution in existence on the commencement of this Act, shall become member of at least one credit information company by 31-12-2008 under sub-section (1) of Section 15 of the Act.

[F.No. 7/67/2005-BOA]

D. P. BHARDWAJ, Dy. Secy.

नई दिल्ली, 23 जनवरी, 2008

का. आ. 202.—निकष बीमा और प्रत्यय गारंटी निगम अधिनियम, 1961 (1961 का 47) की धारा 6 की उपधारा (2) के खण्ड (2) के साथ पठित धारा 6 की उपधारा (1) के खण्ड (घ) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक से परामर्श करने के पश्चात्, एतद्द्वारा, श्री एम.रामदोस, अध्यक्ष एवं प्रबंध निदेशक, ओरियंटल इश्योरेंस कंपनी लिमिटेड, को अधिसूचना जारी किए जाने की तारीख से तीन वर्षों की अवधि के लिए और उसके पश्चात् उनके उत्तराधिकारियों के नामित किए जाने तक और/अथवा अगले आदेशों तक, जो भी पहले हो, श्री आर.के. जोशी के स्थान पर निकष बीमा और प्रत्यय गारंटी निगम (डीआईसीजीसी) के निदेशक मण्डल में निदेशक के रूप में नामित करती है और वे पुनर्नामांकन हेतु पात्र होंगे।

[फा. सं. 6/1/2005-बीओ-1]

जी.बी. सिंह, उप सचिव

New Delhi the 23rd January, 2008

S. O. 202.—In exercise of the powers conferred by clause (d) of sub-section (1) of Section 6 read with clause (ii) of sub-section 2 of Section 6 of the Deposit Insurance and Credit Guarantee Corporation Act, 1961 (47 of 1961), the Central Government, in consultation with Reserve Bank of India, hereby nominates Shri M. Ramadoss, CMD, Oriental Insurance Company Ltd. as a Director on the Board of Directors of Deposit Insurance and Credit Guarantee Corporation (DICGC) for a period of three years from the date of notification and thereafter until his successor is nominated and/or until further orders whichever is earlier vice Shri R.K. Joshi and shall be eligible for re-nomination.

[F.No. 6/1/2005-BO-I]

G. B. SINGH, Dy. Secy.

नई दिल्ली, 23 जनवरी, 2008

का.आ. 203.—राष्ट्रीयकृत बैंक (प्रबन्ध एवं प्रकीर्ण उपबंध) स्कीम, 1970/1980 के खण्ड 3 के उपखण्ड (1) के साथ पठित, बैंककारी कंपनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970/1980 की धारा 9 की उपधारा 3(ज) तथा (3-क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्द्वारा, श्री चित्तरंजन पटवारी, को अधिसूचना की तिथि से तीन वर्ष की अवधि के लिए अथवा अगले आदेश होने तक, जो भी पहले हो, बैंक ऑफ महाराष्ट्र के निदेशक मण्डल में अंशकालीन गैर-सरकारी निदेशक के रूप में नियुक्त करती है।

[फा. सं. 9/22/2006-बीओ-1]

जी. बी. सिंह, उप सचिव

New Delhi, the 23rd January, 2008

S.O. 203.—In exercise of the powers conferred by sub-section 3(h) and (3-A) of Section 9 of the Banking Companies (Acquisition & Transfer of Undertakings) Act, 1970/1980 read with sub-clause (1) of clause 3 of the Nationalised Banks (Management & Miscellaneous Provisions) Scheme, 1970/1980, the Central Government, hereby nominates Shri Chittaranjan Patwari, as part time non-official Director on the Board of Directors of Bank of Maharashtra for a period of three years from the date of notification or until further orders, whichever is earlier.

[F.No. 9/22/2006-BO-I]

G. B. SINGH, Dy. Secy.

नई दिल्ली, 25 जनवरी, 2008

का.आ. 204.—राष्ट्रीयकृत बैंक (प्रबन्ध एवं प्रकीर्ण उपबंध) स्कीम, 1970/1980 के खण्ड 3 के उपखण्ड (1) के साथ पठित, बैंककारी कंपनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970/1980 की धारा 9 की उपधारा 3(ज) तथा (3-क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्द्वारा, श्री एम.बी. एस. प्रसाद, को अधिसूचना की तिथि से तीन वर्षों की अवधि के लिए अथवा अगले

आदेश होने तक, जो भी पहले हो, पंजाब एंड सिंध बैंक के निदेशक मण्डल में अंशकालीन गैर-सरकारी निदेशक के रूप में नियुक्त करती है।

[फा. सं. 9/44/2005-बीओ-1]

जी. बी. सिंह, उप सचिव

New Delhi, the 25th January, 2008

S.O. 204.—In exercise of the powers conferred by sub-section 3(h) and (3-A) of Section 9 of the Banking Companies (Acquisition & Transfer of Undertakings) Act, 1970/1980 read with sub-clause (1) of clause 3 of the Nationalised Banks (Management & Miscellaneous Provisions) Scheme, 1970/1980, the Central Government, hereby nominates Shri M.V.S. Prasad, as part time non-official Director on the Board of Directors of Punjab & Sind Bank for a period of three years from the date of notification or until further orders, whichever is earlier.

[F.No. 9/44/2005-BO-I]

G. B. SINGH, Dy. Secy.

नई दिल्ली, 28 जनवरी, 2008

का.आ. 205.—जबकि, प्रादेशिक ग्रामीण बैंक अधिनियम, 1976 (1976 का 21) (इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार ने दिनांक 29 मार्च 1982 के का.आ. 184 (अ.), दिनांक 26 मार्च 1983 के का.आ. 228(अ.) दिनांक 21 फरवरी 1985 के का.आ. 149 (अ.) और 15 फरवरी 1985 के का.आ. 140(अ.) अधिसूचनाओं के द्वारा, क्रमशः श्री सरस्वती ग्रामीण बैंक, श्री सातवाहन ग्रामीण बैंक व श्री रामा ग्रामीण बैंक और गोलकोंडा ग्रामीण बैंक के नामों से क्षेत्रीय ग्रामीण बैंकों का गठन किया।

जबकि, उक्त अधिनियम की धारा 23क की उपधारा (1) के अंतर्गत प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार ने आन्ध्र प्रदेश राज्य के श्री सरस्वती ग्रामीण विकास बैंक, श्री सातवाहन ग्रामीण बैंक, श्री रामा ग्रामीण बैंक और गोलकोंडा ग्रामीण बैंक को, भारत सरकार, वित्त मंत्रालय, आर्थिक कार्य विभाग (बैंकिंग प्रभाग) की दिनांक 24 मार्च, 2006 की अधिसूचना संख्या के का.आ. 385(अ.) के अंतर्गत, समामेलित कर एकल क्षेत्रीय ग्रामीण बैंक अर्थात् डेक्कन ग्रामीण बैंक बना दिया है।

और जबकि, केन्द्र सरकार, डेक्कन ग्रामीण बैंक के परिचालन क्षेत्र का आन्ध्र प्रदेश राज्य के हैदराबाद (शहरी) जिले तक विस्तार को विनिर्दिष्ट करना चाहती है।

अतः अब, उक्त अधिनियम की धारा 3 के साथ पठित, धारा 23क के अंतर्गत प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार, एतद्वारा, भारत सरकार, वित्त मंत्रालय, आर्थिक कार्य विभाग (बैंकिंग प्रभाग) की दिनांक 24 मार्च, 2006 की अधिसूचना संख्या के का.आ. 385(अ.) में निम्नलिखित संशोधन करती है;

उपर्युक्त अधिसूचना में अनुच्छेद 8 में, "अदिलाबाद, निजामाबाद, करीमनगर और रंगारेड्डी" शब्दों के स्थान पर "अदिलाबाद,

निजामाबाद, करीमनगर, रंगारेड्डी, और हैदराबाद (शहरी)" शब्द प्रतिस्थापित किए जाएंगे।

[फा. सं. 1/22/2007-आरआरबी]

एम.के. मल्होत्रा, उप सचिव

टिप्पणी : मूल अधिसूचना दिनांक 24 मार्च, 2006 को भारत के राजपत्र, असाधारण के भाग-II, खंड 3, उपखंड (ii) में सं. का.आ. 385(अ.) के तहत प्रकाशित की गयी थी।

New Delhi, the 28th January, 2008

S.O. 205.—Whereas, in exercise of the powers conferred under Section 3 of the Regional Rural Banks Act, 1976 (21 of 1976) (hereinafter referred as the said Act), the Central Government constituted the Regional Rural Banks namely Sri Saraswathi Grameena Bank, Sri Sathavahana Grameena Bank, Sri Rama Grameena Bank and Golconda Grameena Bank *vide* notifications No. 184(E), dated the 29th March, 1982, No. 228(E), dated the 26th March, 1983, 149(E), dated the 21st February, 1985 and No. 140(E), dated the 15th February, 1985, respectively;

Whereas, in exercise of powers conferred under sub-section (1) of Section 23A of the said Act, the Central Government provided for the amalgamation of the Sri Saraswathi Grameena Bank, Sri Sathavahana Grameena Bank, Sri Rama Grameena Bank and Golconda Grameena Bank in the State of Andhra Pradesh into a single Regional Rural Bank i.e. Deccan Grameena Bank *vide* notification of the Government of India, Ministry of Finance, Department of Economic Affairs (Banking Division), No. S.O. 385(E), dated the 24th March, 2006;

And whereas, the Central Government intends to specify the extension of area of operation of the Deccan Grameena Bank to Hyderabad (Urban) in the Districts of State of Andhra Pradesh;

Now therefore, in exercise of powers conferred under section 23A, read with Section 3, of the said Act, the Central Government hereby makes the following amendments in the notification of the Government of India, Ministry of Finance, Department of Economic Affairs (Banking Division), No. S.O. 385(E), dated the 24th March, 2006, namely;

In the said notification, in Paragraph 8, for the words "Adilabad, Nizamabad, Karimnagar and Rangareddy", the words and brackets "Adilabad, Nizamabad, Karimnagar, Rangareddy and Hyderabad (Urban)" shall be substituted.

[F.No. 1/22/2007-RRB]

M. K. MALHOTRA, Dy. Secy.

Foot Note : The principal notification was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-Section (ii) No. S.O. 385(E), dated the 24th March, 2006.

पोत-परिवहन, सड़क परिवहन और राजमार्ग मंत्रालय**(पोत परिवहन विभाग)**

नई दिल्ली, 17 जनवरी, 2008

का.आ. 206.—केन्द्रीय दीपस्तंभ सलाहकार समिति (प्रक्रियात्मक) नियमावली, 1976 के नियम 3, 4 और 11 के साथ पठित दीपस्तंभ अधिनियम, 1927 (1927 के 17) की धारा 4 की उपधारा (1) के अनुसरण में, केन्द्र-सरकार, एतद्वारा, तत्काल प्रभाव से दो वर्ष की अवधि के लिए निम्नलिखित व्यक्तियों से युक्त केन्द्रीय दीपस्तंभ सलाहकार समिति नियुक्त करती है, अर्थात् :-

अध्यक्ष

1. सचिव, पोत परिवहन -पदेन

सदस्य2. अपर सचिव और वित्तीय सलाहकार -पदेन
पोत परिवहन, सड़क परिवहन और
राजमार्ग-मंत्रालय3. भारत सरकार के नौचालन सलाहकार -पदेन
नौवहन महानिदेशालय, मुंबई4. भारत सरकार के मुख्य जल सर्वेक्षक, -पदेन
नौसेना जल सर्वेक्षक कार्यालय, देहरादून5. श्री मोहन एस देलकर संसद सदस्य
(लोक सभा)6. श्री जेसुदासु सीलम संसद सदस्य
(राज्य-सभा)7. श्री बी.एस. यादव, उप महानिरीक्षक, -तट-रक्षक के
प्रधान निदेशक (प्रचालन) प्रतिनिधि
तटरक्षक मुख्यालय, नई दिल्ली8. श्री जी.एस. भल्ला -भारतीय पोत-
महाप्रबंधक (एल टी एंड सी पी एस) स्वामी-संच के
भारतीय नौवहन निगम लिमिटेड, मुंबई प्रतिनिधि9. कैप्टन एस.के. भाटिया, -भारतीय पोत-
वरिष्ठ उपाध्यक्ष विपणन (टैंकर) स्वामी-संच के
इस्सार शिपिंग लिमिटेड, मुंबई प्रतिनिधि10. कैप्टन डी.के. मोहन्ती, -भारतीय पत्तन
उप संरक्षक, संच के प्रतिनिधि
पारादीप पत्तन न्यास
उड़ीसा11. श्री रामू एस. देवरा, फ़ैडरेशन ऑफ
सदस्य, कार्यपालक समिति इंडियन चैम्बर्स
फ़ैडरेशन ऑफ इंडियन चैम्बर्स ऑफ कॉमर्स एंड
ऑफ कॉमर्स एंड इंडस्ट्री (फिक्की) इंडस्ट्री (फिक्की)
और अध्यक्ष, जी. अमफ्रे लेबोरेट्रीज, मुंबई12. श्री अमीन एम. सिक्कावाला -पश्चिमी तट के
अध्यक्ष, पाल जलयानों के
फ़ैडरेशन ऑफ आल इंडिया हितों के प्रतिनिधि
सेलिग वैसेल्स इंडस्ट्री एसोसिएशन,
जामनगर13. श्री उबलदराज जे. मैकेना पूर्वी तट के पाल
महासचिव, जलयानों के हितों
इंडियन मोटर्ड वैसेल ओनर्स के प्रतिनिधि
एसोसिएशन, तूतीकोरिन (तमिलनाडु)14. श्री के. मैथ्यू जॉर्ज -एसोसिएटिड चैम्बर
महाप्रबंधक, ऑफ कॉमर्स एंड
एस्पिनवैल एंड कंपनी लिमिटेड, इंडस्ट्री के प्रतिनिधि
कोचीन15. महानिदेशक -सदस्य-सचिव
दीपस्तंभ और दीपपोत
महानिदेशालय

[फा. सं. एल एच-11016/1/2007-एस एल]

वी.पी. राणा, अवर सचिव

**MINISTRY OF SHIPPING, ROAD
TRANSPORT & HIGHWAYS****(Department of Shipping)**

New Delhi, the 17th January, 2008

S. O. 206.—In pursuance of Sub-Section (1) of Section 4 of the Lighthouse Act, 1927 (No. 17 of 1927) read with Rules 3, 4 and 11 of the Central Advisory Committee for Lighthouses (Procedural) Rules, 1976, the Central Government hereby appoints for a period of two years with immediate effect, the Central Advisory Committee for Lighthouses, comprising the following persons, namely :—

CHAIRMAN

1. Secretary (Shipping) -Ex-officio

MEMBERS2. Addl. Secretary & Financial -Ex-officio
Adviser, Ministry of Shipping,
Road Transport & Highways.3. Nautical Advisor to the Govt. -Ex-officio
of India, Directorate General of
Shipping, Mumbai.4. Chief Hydrographer to the Govt. -Ex-officio
of India, Naval Hydrographic
Office, Dehradun.5. Shri Mohan S. Delkar,
M.P. (Lok Sabha)6. Shri Jesudasu Seelam,
M.P. (Rajya Sabha)

7. Shri B. S. Yadav, Dy. Inspector General Principal Director (Operations), Coast Guard Hqrs, New Delhi.	—Representative of Coast Guard.	12. Shri Amin M. Sikkawala President, Federation of All India Sailing Vessels Industry Association, Jamnagar,	—Representative of Sailing Vessels Interest for West Coast.
8. Shri G. S. Bhalla, General Manager (LT & CPS), Shipping Corporation of India, Mumbai.	—Representative of Indian National Shipowners' Association (INSA)	13. Shri Ubaldraj J. Mackenna, General Secretary, Indian Motored Vessel Owners' Association, Tuticorin (Tamil Nadu).	—Representative of Sailing Vessels Interest for Est Coast.
9. Capt. S.K. Bhatia, Sr. Vice President-Marketing (Tankers), Essar Shipping Limited, Mumbai.	—Representative of Indian National Ship- owners' Association (INSA)	14. Shri K. Mathew George, General Manager, Aspinwell & Co. Ltd. Cochin.	—Representative of Associated Chambers of Commerce & Industry (ASSOCHAM).
10. Capt. D.K. Mohanty, Dy. Conservator, Paradip Port Trust, Orissa.	—Representative of Indian Ports Association (IPA)	15. Director General of Lighthouses & Lightships.	—Member- Secretary
11. Shri Ramu S. Deora, Member, Executive Committee FICCI & Chairman, G. Amphray Laboratories, Mumbai.	—Representative of FICCI		

[F. No. LH-11016/1/2007-SL]

V. P. RANA, Under Secy.

उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय

(उपभोक्ता मामले विभाग)

भारतीय मानक ब्यूरो

नई दिल्ली, 18 जनवरी, 2008

फा.आ. 207.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम, 1988 के नियम (4) के उप नियम (5) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन लाइसेंसों के विवरण नीचे अनुसूची में दिए गए हैं, वे स्वीकृत कर दिए गए हैं :-

अनुसूची

क्रम संख्या	लाइसेंस संख्या	चालू तिथि	लाइसेंसधारी का नाम व पता	भारतीय मानक का शीर्षक व संबंधित भारतीय मानक
(1)	(2)	(3)	(4)	(5)
नवम्बर 2007				
01	8874812	02-11-2007	मैसर्स शंकरलाल चौधमल 72-73, गोपाल जी का रास्ता जौहरी बाजार, जयपुर (राजस्थान)	1417 : 1999 स्वर्णाभूषणों की हॉलमार्किंग
02	8876210	13-11-2007	मैसर्स भगवती प्लास्टिक एण्ड पाईप इण्डस्ट्रीज, एच-457, झोटवाडा विस्तार द्वितीय सरणा डूंगर, झोटवाडा, जयपुर-302 012 (राजस्थान)	4984 : 1995 एचडीपीई पाईप्स
03	8874105	30-10-2007	मैसर्स सुराणा सीमेण्ट्स लिमिटेड गांव-पुण्डलु पोस्ट-बोरुण्डा, जिला नागौर (राजस्थान)	8112 : 1989 43 ग्रेड ओपीसी
04	8878618	19-11-2007	मैसर्स शक्ति मैट्रिसेज एण्ड गियर्स प्रा. लि. एफ-81, औद्योगिक सम्मदा भिवाडी-301 019 जिला-अलवर (राजस्थान)	8391 : 1987 रबरआईज्ड कॉयल शीट्स फॉर कुशनिंग

(1)	(2)	(3)	(4)	(5)
05	8878416	20-11-2007	मैसर्स ब्राइट स्टार प्लास्टो इण्डस्ट्रीज जी 1-131, री को औद्योगिक क्षेत्र बगरू विस्तार, अजमेर रोड जयपुर-303 007 (राजस्थान)	9537 (भाग 3) : 1983 रिजिड प्लेन कन्ड्यूट्स फॉर इन्सुलेंटिंग मैटेरियल्स
06	8876008	12-11-2007	मैसर्स गैलेक्सी कोनकैब (इ.) प्रा. लि. जी-164, 164 ए सीतापुर औद्योगिक क्षेत्र जयपुर (राजस्थान)	14255 : 1995 एरियल बन्वड केबल्स

[सं. सी एम डी/ 13 : 11]

ए. के. तलवार, उप महानिदेशक (मुहर)

MINISTRY OF CONSUMER AFFAIRS AND PUBLIC DISTRIBUTION

(Department of Consumer Affairs)

BUREAU OF INDIAN STANDARDS

New Delhi, the 18th January, 2008

S.O. 207.—In pursuance of sub-regulation (5) of regulation 4 of the Bureau of Indian Standards (Certification) Regulation 1988, the Bureau of Indian Standards, hereby notifies the grant of licence particulars of which are given in the following schedules :

SCHEDULE

S. No.	Licence No. (CM/L-)	Operative Date	Name and Address of the Licensee	Article/Process Covered by the licences and the relevant IS: Designation
(1)	(2)	(3)	(4)	(5)
NOV 2007				
01	8874812	02-11-2007	M/s. Shankerlal Chothmal 72-73, Gopal Ji ka Rasta, Johari Bazar, Jaipur (Rajasthan)	1417: 1999 Hallmarking of Gold Jewellery
02	8876210	13-11-2007	M/s. Bhagwati Plastic & Pipe Industries H-457, Jhotwara Ext. IInd Sarna Dungar, Jhotwara Jaipur-302012 (Rajasthan)	4984: 1995 HDPE Pipes
03	8874105	30-10-2007	M/s. Surana Cements Limited Village : Pundlu Post : Borunda Distt. Nagaur (Rajasthan)	8112: 1989 43 Grade OPC
04	8878618	19-11-2007	M/s. Shakti Mattresses & Gears Private Limited F-81, Industrial Estate, Bhiwadi-301 019 Distt. Alwar (Rajasthan)	8391: 1987 Rubberized Coil Sheets for Cushioning
05	8878416	20-11-2007	M/s. Bright Star Plasto Industries G1-131, RIICO Industrial Area, Bagru (Extn.) Ajmer Road, Jaipur-303 007 (Rajasthan)	9537 (Part 3): 1983 Rigid Plain Conduits for Insulating Materials

(1)	(2)	(3)	(4)	(5)
06	8876008	12-11-2007	M/s. Galaxy Concab (I) Pvt. Ltd. G-164, 164A, Sitapura Industrial Area, Jaipur (Rajasthan)	14255: 1995 Aerial Bunched Cables

[No. CMD/13: 11]

A. K. TALWAR, Dy. Director General (Marks)

नई दिल्ली, 21 जनवरी, 2008

का.आ. 208.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम, 1988 के नियम (5) के उप नियम (6) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि निम्न विवरण वाले लाइसेंसों को उनके आगे दर्शायी गई तारीख से रद्द (Cancelled) कर दिया गया है :-

अनुसूची

क्रम सं.	लाइसेंस नं.	लाइसेंसधारी का नाम व पता	लाइसेंस के अंतर्गत वस्तु/प्रक्रम से संबंधित भारतीय मानक का शीर्षक व संबंधित भा. मा.	रद्द करने की तिथि
(1)	(2)	(3)	(4)	(5)
नवम्बर 2007				
01	8792810	मैसर्स उत्तरी राजस्थान सहकारी दुग्ध उत्पादक संघ लि. श्री गंगानगर रोड, बीकानेर-334 002 (राजस्थान)	13334 (भाग 1) : 1998 स्किल्ड मिल्क पाउडर-स्टैंडर्ड ग्रेड	26.10.2007

[सं. सी एम डी/55]

ए. के. तलवार, उप महानिदेशक (मुहर)

New Delhi, the 21st January, 2008

S.O. 208.—In pursuance of sub-regulation (6) of regulation 5 of the Bureau of Indian Standards (Certification) Regulation 1988, the Bureau of Indian Standards, hereby notifies that the licence (s) particulars of which is/are given below has/have been Cancelled with effect from the date indicated.

SCHEDULE

S. No.	Licence No. (CM/L-)	Name and Address of the Licensee	Article/Process with relevant Indian Standards covered by the licence cancelled	Date of Cancellation
(1)	(2)	(3)	(4)	(5)
NOV 2007				
01	8792810	Uttari Rajasthan Sahakari Dugdh Utpadak Sangh Ltd. Sri Ganganagar Road, Bikaner-334 002 Rajasthan	13334 (Part 1): 1998 Skimmed Milk Powder- Standard Grade	26-10-2007

[No. CMD/55]

A. K. TALWAR, Dy. Director General (Marks)

नई दिल्ली, 21 जनवरी, 2008

का.आ. 209.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन भारतीय मानकों के विवरण नीचे अनुसूची में दिए गए हैं वे रद्द कर दिए गए हैं :-

अनुसूची

क्रम सं.	रद्द किये गये मानक (कों) की संख्या वर्ष और शीर्षक	भारत के राजपत्र भाग 2, खंड 3, उपखंड- (ii) में का. आ. संख्या और तिथि प्रकाशित	टिप्पणी
(1)	(2)	(3)	(4)
1.	IS 5645 : 1970 पेडेस्टल कस्पीडर की विशिष्टि		
2.	IS 5830 : 1970 डेन्टल हैंडपीस के संचरण युग्मक (सर्पण जोड़) के आयाम		
3.	IS 5958 : 1970 परावर्तक और चीक रिट्रेक्टर की विशिष्टि		
4.	IS 5997 : 1970 होल्डर, वायर और ब्रोच, डेन्टल की विशिष्टि		
5.	IS 6183 : 1971 डेन्टल सेक्शन आर्म के आयाम		
6.	IS 6282 : 1986 अपशिष्ट रिसीवर, डेन्टल की विशिष्टि		
7.	IS 6884 : 1983 डेन्टल सिलिकेट सीमेंट की विशिष्टि		
8.	IS 7869 : 1975 स्प्रे, डी विल्बिस पैटर्न की विशिष्टि		

[संदर्भ एम. एस. डी./जी-3.5]

राकेश चन्द्र, वैज्ञा.-एफ एवं प्रमुख (एम एच डी)

New Delhi, the 21st January, 2008

S.O. 209.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, it is, hereby notified that the Indian Standards, particulars of which are given in the Schedule given hereafter, have been cancelled and stand withdrawn.

SCHEDULE

Sl. No.	No. & Year of the Indian Standards	S.O. & Date published in the Gazette of India, Part-II, Section 3, Sub-section (ii)	Remarks
(1)	(2)	(3)	(4)
1.	IS 5645 : 1970 Specification for pedestal cuspidors.		
2.	IS 5830 : 1970 Dimensions for transmission coupling (slip-joint) to dental handpieces.		
3.	IS 5958 : 1970 Specification for reflector and cheek retractor.		
4.	IS 5997 : 1970 Specification for holder, wire and broach, dental		
5.	IS 6183 : 1971 Dimensions for dental section arm		
6.	IS 6282 : 1986 Specification for waste receiver, dental		
7.	IS 6884 : 1983 Specification for dental silicate cement		
8.	IS 7869 : 1975 Specification for spray, De Vilbi's pattern		

[Ref. MSD/G-3.5]

RAKESH CHANDER, Scientist-F & Head (MHD)

नई दिल्ली, 23 जनवरी, 2008

का.आ. 210.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम, 1988 के नियम 4 के उपनियम (5) के अनुसार में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन लाइसेंसों के विवरण नीचे अनुसूची में दिए गए हैं, वे स्वीकृत कर दिए गए हैं :-

203 GI/08-4

अनुसूची

अनु- क्रमांक	वैधता दिनांक	लाइसेंस संख्या	लाइसेंस धारकों का नाम और पता	उत्पादन	भा.म./भाग/विभाग/वर्ष
1	2	3	4	5	6
1	20080802	7766602	आई टी डब्ल्यू इंडिया लिमिटेड सर्वे संख्या-263, सुरंगी गाँव, सिल्वासा, दादरा एवं नागर हवेली	पॉलिस्टर स्ट्रिपिंग	15559 : 2004
2	20080805	7767301	दीपक लैब शिव मला, गट संख्या-1008/01/01 (1007/1/1), साकोरे रोड, नांदगाँव, जिला-नासिक-422010.	डि-ओडोरायजिंग-कम- डिसइनफेक्टन्ट फल्युड	10758 : 1983
3	20080828	7772189	चितामणी फूड्स एन्ड बेव्हेरेजेस प्लॉट संख्या-एफ 133, एमआइडीसी, अंबड, जिला नासिक-422010.	पैकेजबंद पेयजल	14543 : 2004
4	20080904	7763390	वरुणा एन्टरप्राइजेस प्लॉट संख्या 28, सर्वे संख्या 463/3+4, संभाजी नगर, महाबल के पास, जलगाँव-425002.	पैकेजबंद पेयजल	14543 : 2004
5	20080920	7774092	रश्मी बेव्हेरेजेस डी-28, एमआइडीसी, मालेगाँव (सिन्नर), सिन्नर जिला-नासिक	पैकेजबंद पेयजल	14543 : 2004
6	20081008	7775502	वैकुण्ठ मार्केटिंग प्राइवेट लिमिटेड यूनिट संख्या 18, बीटीएम बिल्डिंग संख्या-1, मेहरा इंडस्ट्रियल कंपाऊंड, कुर्ला अंधेरी रोड, मुंबई-400 072.	पैकेजबंद पेयजल	14543 : 2004
7	20081010	7776201	अक्वाओक्सी प्लॉट संख्या- एम-32, अतिरिक्त मुरबाड, एमआइडीसी, मुरबाड, जिला-थाणे-421 401.	पैकेजबंद पेयजल	14543 : 2004
8	20081115	7797411	तुलसी एक्टुजन् लिमिटेड एन-99 और 100, एमआइडीसी एरिया, जलगाँव-425003.	सिंचाई उपस्कर-पॉलिथिलिन पाईप्स फोर सिंचाई लेटरल	12786 : 1989
9	20081120	7798110	प्रगति ईरिगेशन सिस्टम्स प्राइवेट लिमिटेड गेट संख्या 87/1/बी/2/1, पोस्ट-साकोरे मिग, तालुका-निफाड, जिला नासिक-422209.	ईमिटिंग पाईप सिस्टम	13488 : 1992

[सं. सी एम डी/13 : 11]

ए. के. तलवार, उप महानिदेशक (मुहर)

New Delhi, the 23rd January 2008

S.O. 210.—In pursuance of sub-regulation (5) of regulation 4 of the Bureau of Indian Standards (Certification) Regulations, 1988, the Bureau of Indian Standards, hereby notifies the grant of licences particulars of which are given below in the following schedule :

SCHEDULE

Sl. No.	Validity Date	Licence No.	Name and Address (factory) of the Party	Product	IS No./Part/Sec. Year
1	2	3	4	5	6
1.	20080802	7766602	ITW India Ltd. Survey No. 263, Surangi Village Silvassa, Dadra & Nagar Haveli	Polyester Strapping	15559:2004
2.	20080805	7767301	Deepak Labs. Shiv Mala Gat No. 1008/01/01 (1007/1/1) Sakora Road, Nandgaon, Dist. Nashik-423 106	De-odorising-cum- Disinfectant Fluid	10758:1983
3.	20080828	7772189	Chintamani Foods & Beverages Plot No. F-133 MIDC, Ambad, Dist. Nashik-422 010	Packaged Drinking Water (other than Packaged Natural Mineral Water)	14543:2004
4.	20080904	7763390	Varuna Enterprises Plot No. 28, Survey No. 463/3+4 Sambhaji Nagar, Near Mahabal, Jalgaon-425002	Packed Drinking Water (other than Packaged Natural Mineral Water)	14543:2004
5.	20080920	7774092	Rashmee Beverages D-28, MIDC Malegaon (Sinnar) Sinnar, Dist. Nashik	Packed Drinking Water (other than Packaged Natural Mineral Water)	14543:2004
6.	20081008	7775502	Vikun Marketing Pvt. Ltd., Unit No. 18, VTM Bldg. No. 1 Mehra Industrial Compound Kurla Andheri Road, Mumbai-400 072	Packed Drinking Water (other than Packaged Natural Mineral Water)	14543:2004
7.	20081010	7776201	Aquaoxy Plot No. M-32, Addl. Murbad, MIDC, Murbad, Dist. Thane-421401	Packed Drinking Water (other than Packaged Natural Mineral Water)	14543:2004
8.	20081115	7797411	Tulsi Extrusions Limited N-99 & 100, MIDC Area, Jalgaon-425003	Irrigation Equipment Polyethylene Pipes for Irrigation Laterals	12786:1989
9.	20081120	7798110	Pragati Irrigation Systems P. Ltd. Gat No. 87/1/B/2/1, At Post, Sakore (Mig) Tal : Nipad, Nashik-422209	Emitting pipes system	13488:1992

[No. CMD/13.11]

A.K. TALWAR, Dy. Director General (Mark)

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 23 जनवरी, 2008

का.आ. 211.—केन्द्रीय सरकार, सरकारी स्थान (अप्राधिकृत अधिभोगियों की बेदखली) अधिनियम, 1971 (1971 का 40) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए और भारत सरकार के पेट्रोलियम मंत्रालय की का.आ. संख्यांक 613, तारीख 29 जनवरी, 1977 और का.आ. संख्यांक 4448 तारीख 3 दिसंबर, 1984 के अधीन जारी की गई अधिसूचनाओं को, उन बातों के सिवाय अधिकृत करते हुए जिन्हें ऐसे अधिकरण से पहले किया गया है या करने से लोप किया गया है, नीचे की सारणी के स्तंभ (2) में उल्लिखित अधिकारियों को, जो इंडियन आयल कारपोरेशन लिमिटेड के अधिकारी हैं, उक्त अधिनियम के प्रयोजनों के लिए संपदा अधिकारी नियुक्त करती है और उक्त अधिकारी उक्त सारणी के स्तंभ (3) में विनिर्दिष्ट परिसरों की बाबत अपनी-अपनी स्थानीय अधिकारिता के भीतर उक्त अधिनियम द्वारा या उसके अधीन किसी संपदा अधिकारी को प्रदत्त शक्तियों का प्रयोग करेंगे और उस पर अधिरोपित कर्तव्यों का पालन करेंगे, अर्थात् :-

सारणी

क्र.सं. अधिकारी का नाम और पदनाम		सरकारी स्थानों के प्रवर्ग और अधिकारिता की स्थानीय सीमाएं
(1)	(2)	(3)
1.	इंडियन आयल कारपोरेशन लिमिटेड के प्रधान कार्यालय में महाप्रबंधक (विधि), उपमहाप्रबंधक (विधि), मुख्य विधि प्रबंधक, ज्येष्ठ विधि प्रबंधक, प्रबंधक (विधि), उपप्रबंधक (विधि), सहायक प्रबंधक (विधि), और विधि अधिकारी।	मुंबई स्थित इंडियन आयल कारपोरेशन लिमिटेड के रजिस्ट्रिकृत कार्यालय और प्रधान कार्यालय के जिसके अंतर्गत आईबीपी प्रभाग भी है, प्रशासनिक नियंत्रणाधीन संपूर्ण उपप्रबंधक (विधि), सहायक भारत में के स्थान।
2.	मुंबई, दिल्ली, कोलकाता और चेन्नई स्थित इंडियन आयल कारपोरेशन लिमिटेड के क्षेत्रीय कार्यालयों के उप महाप्रबंधक (विधि), मुख्य विधि प्रबंधक, ज्येष्ठ विधि प्रबंधक, प्रबंधक (विधि), उप प्रबंधक (विधि), सहायक प्रबंधक (विधि) और विधि अधिकारी।	इंडियन आयल कारपोरेशन लिमिटेड के मुंबई, दिल्ली, कोलकाता और चेन्नई के संबंधित क्षेत्रीय कार्यालयों के, जिसके अंतर्गत आईबीपी प्रभाग भी है, प्रशासनिक नियंत्रणाधीन स्थान।
3.	इंडियन आयल कारपोरेशन लिमिटेड के राज्य कार्यालयों के मुख्य विधि प्रबंधक, ज्येष्ठ विधि प्रबंधक, प्रबंधक (विधि), उप प्रबंधक	इंडियन आयल कारपोरेशन लिमिटेड के जिसके अंतर्गत आईबीपी प्रभाग भी है, संबंधित राज्य कार्यालयों के, प्रशासनिक नियंत्रणाधीन स्थान।

(1) (2)

(3)

(विधि), सहायक प्रबंधक (विधि), और विधि अधिकारी।

4. इंडियन आयल कारपोरेशन (असम तेल प्रभाग), दिग्बोई के ज्येष्ठ प्रबंधक, (संपदा और विधि), प्रबंधक (संपदा और विधि), और उप प्रबंधक (संपदा और विधि), ज्येष्ठ संपदा और विधि अधिकारी।
- इंडियन आयल कारपोरेशन लिमिटेड, दिग्बोई के असम तेल प्रभाग के प्रशासनिक नियंत्रणाधीन स्थान।

[सं. पी-29022/15/2007-आईओसी]

संजय गुप्ता, उप सचिव

MINISTRY OF PETROLEUM AND NATURAL GAS

New Delhi, the 23rd January, 2008

S.O. 211.—In exercise of the powers conferred by Section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (40 of 1971) and in supersession of the notifications of the Government of India in the Ministry of Petroleum vide number S.O. 613, dated the 29th January, 1977 and S.O. 4487 dated the 3rd December, 1984, except as respects things done or omitted to be done before such supersession, the Central Government hereby appoints the officers mentioned in column (2) of the Table below, being officers of Indian Oil Corporation Limited, to be the Estate Officers for the purposes of the said Act, and the said officers shall exercise the powers conferred and perform the duties imposed on an Estate Officer by or under the said Act within the local limits of their jurisdiction, in respect of the premises specified in column (3) of the said Table, namely :—

TABLE

Sl. No.	Name and designation of the officer	Categories of public premises and local limits of jurisdiction
(1)	(2)	(3)
1.	General Manager (Law), Deputy General Manager (Law), Chief Law Manager, Senior Law Manager, Manager, (Law), Deputy Manager (Law), Assistant Manager (Law) and Law Officer in the Head Office of the Indian Oil Corporation Limited.	Premises in the whole of India under the administrative control of the Indian Oil Corporation Limited, Registered Office and Head Office at Mumbai including IBP Division.
2.	Deputy General Manager (Law), Chief Law Manager,	Premises under the administrative control of the

(1)	(2)	(3)
	Senior Law Manager, Manager (Law), Deputy Manager (Law), Assistant Manager (Law) and Law Officer in the Regional Offices of Indian Oil Corporation Limited at Mumbai, Delhi, Kolkata and Chennai.	the Respective Regional Offices of the Indian Oil Corporation Limited at Mumbai, Delhi, Kolkata and Chennai, including IBP Division.
3.	Chief Law Manager, Senior Law Manager, Manager (Law), Deputy Manager (Law), Assistant Manager (Law) and Law Officer in the State Offices of Indian Oil Corporation Limited.	Premises under the administrative control of the respective State Offices of Indian Oil Corporation Limited, including, IBP Division.
4.	Senior Manager (Estate and Law), Manager (Estate and Law) and Deputy Manager (Estate and Law), Senior Estate and Law Officer, Indian Oil Corporation Limited (Assam Oil Division), Digboi.	Premises under the administrative control of the Assam Oil Division, of the Indian Oil Corporation Limited, Digboi.

[No. P-29022/15/2007-IOC]

SANJAY GUPTA, Dy. Secy.

नई दिल्ली, 31 जनवरी 2008

का.आ. 212.—केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का.आ. 954 तारीख 2 अप्रैल, 2007, जो भारत के राजपत्र तारीख 7 अप्रैल, 2007 में प्रकाशित की गई थी, द्वारा उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में मध्य प्रदेश राज्य में मांगल्या (इंदौर) संस्थापन से हरियाणा राज्य में पियाला तथा दिल्ली राष्ट्रीय राजधानी क्षेत्र में बिजवासन तक पेट्रोलियम उत्पादों के परिवहन के लिए मुंबई-मांगल्या पाइपलाइन विस्तार परियोजना के माध्यम से भारत पेट्रोलियम कारपोरेशन लिमिटेड द्वारा एक विस्तार पाइपलाइन बिछाने के प्रयोजन के लिए उपयोग के अधिकार का अर्जन के अपने आशय की घोषणा की थी;

और उक्त राजपत्र अधिसूचना की प्रतियां जनता को तारीख 16 अक्टूबर, 2007 को उपलब्ध करा दी गई थी;

और सक्षम प्राधिकारी ने, उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन, केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है;

और केन्द्रीय सरकार ने, उक्त रिपोर्ट पर विचार करने के पश्चात्, और यह समाधान हो जाने पर कि उक्त भूमि पाइपलाइन बिछाने के लिए अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइन बिछाने के लिए उपयोग के अधिकार का अर्जन किया जाता है;

और केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है कि उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख को केन्द्रीय सरकार में निहित होने की बजाए, सभी विल्लंगमों से मुक्त, भारत पेट्रोलियम कारपोरेशन लिमिटेड में निहित होगा।

अनुसूची

तहसील : हिण्डौन		जिला : करौली	राज्य : राजस्थान
क्र. सं.	ग्राम का नाम	सर्वे नंबर	क्षेत्रफल हैक्टेयर में
1.	सनेट	887	0.0400
		886	0.0140
		1035	0.0100
		1026	0.0371
		1028	0.0089
		1058	0.2100
		1057	0.1000
2.	हिण्डौन	4957	0.0200
		4947	0.0050
		4946	0.1000
		9118	0.468
		7529	0.0050

[फा.सं. आर-31015/94/2004-ओआर-II]

ए. गोस्वामी, अवर सचिव

New Delhi, the 31st January, 2008

S.O. 212.—Whereas by a notification of the Government of India in the Ministry of Petroleum and Natural Gas number S.O. 954, dated the 2nd April, 2007, issued under sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962) (hereinafter referred to as the said Act) published in the Gazette of India dated the 7th April, 2007, the Central Government declared its intention to acquire the right of user in the land, specified in the Schedule appended to that notification for the purpose of laying an extension pipeline for transportation of petroleum products through Mumbai-Manglya Pipeline Extension Project from Manglya (Indore) terminal in the State of Madhya Pradesh to Piyaala in the State of Haryana and Bijwasan in the NCT of Delhi by Bharat Petroleum Corporation Limited;

And whereas the copies of the said Gazette notification were made available to the public on the 16th October, 2007;

And whereas the Competent authority has, under sub-section (1) of Section 6 of the said Act, submitted report to the Central Government;

And whereas the Central Government, after considering the said report and on being satisfied that the said land is required for laying the pipeline, has decided to acquire the right of user therein ;

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 6 of the said Act, the Central Government hereby declares that the right of user in the said land, specified in the Schedule, appended to this notification, is hereby acquired for laying the pipeline;

And further, in exercise of the powers conferred by sub-section (4) of Section 6 of the said Act, the Central Government hereby directs that the right of user in the said land for laying the pipeline shall, instead of vesting in the Central Government, vest on the date of the publication of this declaration, in Bharat Petroleum Corporation Limited, free from all encumbrances.

SCHEDULE

Tehsil : Hindaun District : Karauli State : Rajasthan

S. No.	Name of Village	Survey No.	Area in Hectare
1.	Sanet	887	0.0400
		886	0.0140
		1035	0.0100
		1026	0.0371
		1028	0.0089
		1058	0.2100
		1057	0.1000
2.	Hindaun	4957	0.0200
		4947	0.0050
		4946	0.1000
		9118	0.468
		7529	0.0050

[F. No. R-31015/94/2004-OR-II]

A. GOSWAMI, Under Secy.

नई दिल्ली, 31 जनवरी, 2008

का.आ. 213.—केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का.आ. 570 तारीख 22-02-2007, जो भारत के राजपत्र तारीख 24-02-2007 में प्रकाशित की गई थी, द्वारा उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में गुजरात राज्य में मुन्द्रा से दिल्ली तक पेट्रोलियम उत्पादों के परिवहन के लिए मुन्द्रा-दिल्ली पेट्रोलियम उत्पाद पाइपलाइन के माध्यम से हिन्दुस्तान पेट्रोलियम

कारपोरेशन लिमिटेड द्वारा पाइपलाइन बिछाने के प्रयोजन के लिए उपयोग के अधिकार का अर्जन के अपने आशय की घोषणा की थी;

और उक्त राजपत्र अधिसूचना की प्रतियां जनता को तारीख 15-05-2007 को उपलब्ध करा दी गई थी;

और सक्षम प्राधिकारी ने, उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन, केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है;

और केन्द्रीय सरकार ने, उक्त रिपोर्ट पर विचार करने के पश्चात, और यह समाधान हो जाने पर कि उक्त भूमि पाइपलाइन बिछाने के लिए अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि इस अधिसूचना में संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइन बिछाने के लिए उपयोग के अधिकार का अर्जन किया जाता है;

और केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है कि उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख से केन्द्रीय सरकार में निहित होने की बजाए, इस मंत्रालय के सहमति पत्र सं आर-31015/7/03 ओ. आर-II दिनांक 25-11-2004 द्वारा लगाई गई शर्तों के अधीन सभी विल्लंगामों से मुक्त, हिन्दुस्तान पेट्रोलियम कॉर्पोरेशन लिमिटेड में निहित होगा।

अनुसूची

तहसील : शाहपुरा जिला : जयपुर राज्य : राजस्थान

क्र.सं.	गांव का नाम	खसरा सं.	क्षेत्रफल		
			हैक्टेयर	एयर	वर्गमीटर
(1)	(2)	(3)	(4)	(5)	(6)
1	देवन	2528	0	04	48

[फा. सं. आर-31015/60/2004-ओ आर-II]

ए. गोस्वामी, अवर सचिव

New Delhi, 31st January, 2008

S.O. 213.—Whereas by notification of the Government of India in the Ministry of Petroleum and Natural Gas number S.O. 570, dated the 22-2-2007, in the Schedule below issued under sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962) (hereinafter referred to as the said Act) published in the Gazette of India dated the 24-2-2007 respectively the Central Government declared its intention to acquire the right of user in the land, specified in the Schedule appended to that notification for the purpose of laying pipeline through Mundra-Delhi Petroleum Product Pipeline for transportation of petroleum products from Mundra in the state of Gujarat to Delhi by Hindustan Petroleum Corporation Limited.

And whereas the copies of the said Gazette notification were made available to the public on 15-05-2007;

And whereas the Competent Authority has, under sub-section (1) of Section 6 of the said Act, submitted report to the Central Government;

And whereas the Central Government, after considering the said report and on being satisfied in the Schedule appended to this notification is hereby acquired for laying the pipeline;

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 6 of the said Act, the Central Government hereby declares that the right of user in the land specified in the Schedule, appended to this notification, is hereby acquired for laying the pipeline;

And further, in exercise of the powers conferred by sub-section (4) of Section 6 of the said Act, the Central Government hereby directs that the right of user in the said land for laying the pipeline shall, instead of vesting in the Central Government, vest on the date of the publication of the declaration, in Hindustan Petroleum Corporation Limited, free from all encumbrances, subject to the conditions imposed vide this Ministry's consent letter No. R-31015/7/03 OR-II dated 25-11-04.

SCHEDULE

Tehsil : Shahapura District : Jaipur State : Rajasthan

Area					
Sl. No.	Name of the Village	Khasra No.	Hectare	Are	Sq.Mtr.
(1)	(2)	(3)	(4)	(5)	(6)
1	Devan	2528	0	04	48

[F. N. R-31015/60/2004-OR-II]

A. GOSWAMI, Under Secy.

नई दिल्ली, 31 जनवरी, 2008

का.आ. 214.—केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 3 की उप-धारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का.आ. 975 तारीख 4 अप्रैल, 2007, जो भारत के राजपत्र तारीख 7 अप्रैल, 2007 में प्रकाशित की गई थी, द्वारा उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में मुन्द्रा-दिल्ली पेट्रोलियम उत्पाद पाइपलाइन के माध्यम से गुजरात राज्य में मुन्द्रा से दिल्ली तक पेट्रोलियम उत्पादों के परिवहन के लिए हिन्दुस्तान पेट्रोलियम कारपोरेशन लिमिटेड द्वारा पाइपलाइन बिछाने के प्रयोजन के लिए उपयोग के अधिकार का अर्जन के अपने आशय की घोषणा की थी;

और उक्त राजपत्र अधिसूचना की प्रतियां जनता को तारीख 31 मई, 2007 को उपलब्ध करा दी गई थीं;

और सक्षम प्राधिकारी ने, उक्त अधिनियम की धारा 6 की उप-धारा (1) के अधीन, केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है;

और केन्द्रीय सरकार ने, उक्त रिपोर्ट पर विचार करने के पश्चात्, और यह समाधान हो जाने पर कि उक्त भूमि पाइपलाइन बिछाने के लिए अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइन बिछाने के लिए उपयोग के अधिकार का अर्जन किया जाता है;

और केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उप-धारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है कि उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख से केन्द्रीय सरकार में निहित होने की बजाए, इस मंत्रालय के सहमति पत्र सं. आर-31015/7/03-ओ. आर-II दिनांक 25-11-2004 द्वारा लगाई गई शर्तों के अधीन सभी विल्लंगामों से मुक्त, हिन्दुस्तान पेट्रोलियम कॉर्पोरेशन लिमिटेड में निहित होगा।

अनुसूची

तहसील : बावल		जिला : रेवाड़ी		राज्य : हरियाणा			
क्र. सं.	ग्राम का नाम	हदबस्त संख्या	मुसतिल संख्या	खसरा/ किला सं.	क्षेत्रफल हैक्टेयर	एयर वर्गमीटर	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1	आसरा का माजरा	15	8	4	00	00	20
				7	00	00	65
				8	00	00	10
				13	00	00	65
				14/1	00	00	10

[फा. सं. आर-31015/34/2004-ओ आर-II]

ए. गोस्वामी, अवर सचिव

New Delhi, 31st January, 2008

S.O. 214.—Whereas by a notification of the Government of India in the Ministry of Petroleum and Natural Gas S.O. No. 975 dated the 4th April, 2007, issued under sub-section (1) of Section 3 of the Petroleum & Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), (hereinafter referred to as the said Act), published in the Gazette of India dated the 7th April, 2007, the Central Government declared its intention to acquire the right of user in the land specified in the Schedule appended to that notification for the purpose of laying pipeline for transportation of petroleum products from Mundra in the State of Gujarat to Delhi through Mundra-Delhi Petroleum Product Pipeline by Hindustan Petroleum Corporation Limited;

And whereas copies of the said Gazette notification were made available to the public on the 31st May, 2007;

And whereas the Competent Authority has, under sub-section (1) of section 6 of the said Act, submitted report to the Central Government;

And whereas the Central Government, after considering the said report and on being satisfied that the said land is required for laying the pipeline, has decided to acquire right of user therein;

Now, therefore, in exercise of powers conferred by sub-section (1) of section 6 of the said Act, the Central Government hereby declares that the right of user in the land specified in the Schedule, appended to this notification, is hereby acquired for laying the pipeline;

And further, in exercise of the powers conferred by sub-section (4) of section 6 of the said Act, the Central Government hereby directs that the right of user in the said land for laying the pipeline shall, instead of vesting in the Central Government, vest on the date of publication of declaration, in Hindustan Petroleum Corporation Limited, free from all encumbrances, subject to the conditions imposed vide this Ministry's consent letter No. R-31015/7/03-OR-II dated 25-11-2004.

SCHEDULE

Tehsil: Bawal		District: Rewari		State : Haryana			
Sl. No.	Name of Village	Hadbast No.	Mustil No.	Khasra/ Killa No.	Area Hec- tare	Area Sq. Metre	
1	Asra Ka Majra	15	8	4	00 00	20 65 10 65 10	

[F. No. R-31015/34/2004-OR-II]

A. GOSWAMI, Under Secy.

नई दिल्ली, 1 फरवरी, 2008

का.आ. 215.—भारत सरकार को लोकहित में यह आवश्यक प्रतीत होता है कि गुजरात राज्य में दहेज-हजीरा-उरान पाइपलाइन परियोजना के माध्यम से प्राकृतिक गैस के परिवहन के लिए गेल (इण्डिया) लिमिटेड द्वारा, एक पाइपलाइन बिछाई जानी चाहिए;

और भारत सरकार को उक्त पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि उस भूमि में, जिसमें उक्त पाइपलाइन बिछाए जाने का प्रस्ताव है और जो इस अधिसूचना से संलग्न अनुसूची में वर्णित है, उपयोग के अधिकार का अर्जन किया जाए;

अतः अब, भारत सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उस भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

कोई व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से जिसको उक्त अधिनियम की धारा 3 की उप-धारा (1) के अधीन भारत के राजपत्र में यथा प्रकाशित इस अधिसूचना की प्रतियाँ साधारण जनता को उपलब्ध कर दी जाती हैं, इक्कीस दिन के भीतर, भूमि के नीचे पाइपलाइन बिछाए जाने के संबंध में, श्री एस. के. राठौर, सक्षम प्राधिकारी, गेल (इण्डिया) लिमिटेड, ओल्ड कालोनी, नियर ओ. एन. जी. सी. सर्कल हजीरा, सुरत, गुजरात को लिखित रूप में आक्षेप भेज सकेगा।

अनुसूची

जिला	तहसील	गांव	सर्वे नंबर	क्षेत्र (हेक्टर)
1	2	3	4	5
सूरत	सूरत सिटी	आभावा	414/ए/बी 427	0.1780 0.0800

[फा. सं. एल-14014/12/2006-जी पी (पार्ट VIII)]

एस. बी. मंडल, अवर सचिव

New Delhi, the 1st February, 2008

S.O. 215.—Whereas it appears to Government of India that it is necessary in the public interest that for transportation of natural gas through Dahej - Hazira - Uran Pipeline Project in the State of Gujarat, a pipeline should be laid by GAIL (India) Limited;

And, whereas it appears to Government of India that for the purpose of laying the said pipeline, it is necessary to acquire the Right of User in the land under which the said pipeline is proposed to be laid and which is described in the Schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), Government of India hereby declares its intention to acquire the right of user therein;

Any person interested in the land described in the said Schedule may, within twenty one days from the date on which the copies of the notification issued under sub-section (1) of Section 3 of the said Act, as published in the Gazette of India are made available to the general public, object in writing to the laying of the pipeline under the land to Shri S.K. Rathod, Competent Authority, GAIL (India) Limited, Old Colony, Near O.N.G.C. Circle, Hazira, Surat (Gujarat).

SCHEDULE

District	Tehsil	Village	Survey No.	Area to be acquired
1	2	3	4	5
Surat	Surat city	Abhava	414/A/B 427	0.178 0.08

[F.No. L-14014/12/2006-G P (Part-VIII)]

S. B. MANDAL, Under Secy.

श्रम एवं रोजगार मंत्रालय

नई दिल्ली, 3 जनवरी, 2008

का.आ. 216.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण/श्रम न्यायालय, पटना के पंचाट (संदर्भ संख्या 13(सी)/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-1-2008 को प्राप्त हुआ था।

[सं. एल-12011/52/2004-आई आर (बी-II)]

राजिन्द्र कुमार, डेस्क अधिकारी

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 3rd January, 2008

S.O. 216.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No.13(C)/2004) of the Industrial Tribunal-cum-Labour Court, Patna (Bihar) as shown in the Annexure, in the Industrial Dispute between the management of Bank of India and their workmen, received by the Central Government on 3-1-2008

[No. L-12011/52/2004-IR (B-II)]

RAJINDER KUMAR, Desk Officer

ANNEXURE

**BEFORE THE PRESIDING OFFICER
INDUSTRIAL TRIBUNAL, PATNA
Reference Case No. 13(C) of 2004**

Between the management of Bank of India, Zonal Office, Punkaj Market, Suraiya Ganj, Muzaffarpur and their workman Shri Shyam Paswan represented by the General Secretary, Bank of India Employees Union, C/o Bank of India, Frazer Road, Patna (Bihar).

For the Management : Shri Binay Bihar Sharan,
Advocate

For the Workmen : Shri Devi Kant Jha, Advocate.

Present : Vasudeo Ram, Presiding Officer
Industrial Tribunal, Patna

AWARD

Patna, dated the 31st December, 2007

By adjudication Order No. L-12011/52/2004-IR (B-II) dated 28-7-2004 of Government of India, Ministry of Labour under Clause (d) of Sub-section (1) and Sub-section (2-A) of Section 10 of Industrial Disputes Act, 1947 (hereinafter called 'the Act' for brevity) has referred the following dispute between the management of Bank of India, Zonal Office, Muzaffarpur and their workman Shri Shyam Paswan represented by the General Secretary, Bank of India Employees Union to this Tribunal for adjudication on the following:

"Whether the action of the management of Bank of India, Muzaffarpur Zone, Muzaffarpur in denying regularisation of service of Shri Shyam Paswan Safai Karamchari is legal and justified? If not, what relief Shri Paswan is entitled to?"

2. The parties appeared on notice issued by the Tribunal on receipt of the reference and filed their statement of claim and the written statement. A rejoinder to the written statement of W.S. filed on behalf of the management has also been filed on behalf of the workman. The contention of the workman is short is that the workman was employed as a Safai Karamchari on 29-3-1990, the date of opening of the Branch Office at Rajkharwar against a permanent vacancy under Bank of India, Muzaffarpur Zone (hereinafter called 'the Bank' for brevity) on regular basis. He was the only sub-staff in the Branch and he did all sorts of works like opening of gate, taking out ledgers/registers from almirah and keeping them back, taking out token book, scroll book from cash department to Account department and vice-versa, delivery of Dak, stitching of vouchers, closing the gate after office hours besides cleaning of Lavatories and urinals and serving water to the Bank staff and the customers. He worked from 9 a.m. to 6 p.m. on all working days. He was paid wages @ Rs. 175/- per month which was subsequently enhanced to Rs. 450/- per month in the year 2002. He put in more than 240 days work in a year. Further, the contention of the workman is that he repeatedly requested the authorities to enhance his wages and to regularise his service, the Branch Manager of that Branch in a series of letters to the higher authorities recommended his case for regularisation and enhancement of pay but he did not get the relief. Then he approached 'The Union' which took up his cause with the Bank Management but no fruitful result came out. His case was espoused before the Asst. Labour Commissioner (Central), Patna and the conciliation proceeding was started but the same failed. The failure report was sent and then this reference has been made for adjudication. The workman claims that the Bank Management be directed to regularise his services in subordinate cadre w.e.f. 29-3-1990 in the Scale of Pay of Class IV Staff and to make payment of dues with interest.

3. The contention of the management is that Shri Paswan was not employed after following the prescribed procedure of recruitment like calling the candidate through Employment Exchange, carrying out interview and finally selecting the most suitable candidate. There has been no employer-employee relationship between the Bank Management and Shri Paswan. According to the management persons employed against leave vacancy or for carrying out some casual nature of work which is purely temporary in nature and paid on day-to day basis can not be considered as employee of the Bank. The claim of Shri Paswan that he was employed is totally misconceived; he was engaged to work as casual labourer and he never

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worked for 240 days in a block of 12 calendar months at any point of time. According to the management the relief claimed by Shri Paswan is liable to be rejected.

4. Upon the pleadings of the parties and the terms of reference the following points need to be considered:—

- (i) Whether there is the relationship of Employer and employee between the parties?
- (ii) Whether the action of the management of Bank of India, Muzaffarpur Zone, Muzaffarpur in denying regularisation of service of Shri Shyam Paswan, Safai Karamchari is legal and justified?
- (iii) What relief or reliefs, if any, Shri Paswan is entitled to?

FINDINGS

Points No. (i) & (ii):

5. Since both the points are co-related both have been taken together consideration for convenience sake. Both the parties have adduced evidence, oral as well as documentary in support of their respective contentions. The management has examined two witnesses, namely Ashwini Kumar Chowdhary (M.W.1) who remained posted as Manager in Rajakherwar branch of Bank of India from 2002 till June, 2004 and Safat Ahmad Khan (M.W.2), Marketing Officer who remained posted as Branch Manager in Rajakherwar Branch from June, 2004 till April, 2006. The management has filed photo copy of Establishment Book 178 pages (Ext.M), photo copy of letter dated 22-8-1991 of Branch Manager to Regional Manager (Ext.M/1), photo copy of letter dated 16-2-1993 of Branch Manager to Regional Manager (Ext.M/2) and photo copy of letter dated 13-7-2000 of Branch Manager to Regional Manager (Ext.M/3). As against that the workman Shyam Paswan has examined himself (as W.W.1) besides Chandra Kumar Singh (W.W.2) who is posted as Clerk-cum-Cashier in Bank of India, Muzaffarpur Branch and Rameshwar Prasad (W.W.3), General Secretary of Bihar State, Bank of India Employees, Union W.W.2 has proved and got exhibited letter dated 22-8-1991 and 16-2-1993 of Branch Manager to Regional Manager (Ext. W & W/1). The same letters have been marked exhibit on behalf of the management as Exts. M/1 & M/2. The workman has also got exhibited the photo copy of letter dated 2-12-2003 of Asst. Labour Commissioner (Central), Patna to Zonal Manager, Bank of India, Muzaffarpur (Ext. W/2) copy of letter dated 6-1-2004 (Ext. W/3) of Zonal Manager to Asst. Labour Commissioner (Central), Patna and the photo copy of failure report dated 16-3-2004 (Ext. W/4).

6. The management witness (M.W.1) has stated that Shyam Paswan worked in Rajakherwar branch of Bank of India occasionally as casual worker as Safai Karamchari and he used to be paid on the same day. The management has produced the photo copy of Establishment Salary register (Ext.M) and the management witnesses have stated

that the name of Shyam Paswan does not bear on the same meaning thereby Shyam Paswan was not an employee of the Bank. The management witnesses have further stated that Shyam Paswan was not appointed through prescribed procedure of recruitment nor the Branch Manager who engaged him was empowered to appoint him M.W.1 has admitted that Shyam Paswan worked occasionally as casual labourer but not 240 days continuously in a calendar year. As against that the workman (W.W.1) has stated that Shri B.N. Yadav, Branch Manager of Bank of India, Rajakherwar branch had appointed him and he is working as Safai Karamchari in from 29-3-1990 the day on which the said Branch started functioning. He has further stated that he was the only employee in subordinate cadre and worked in office besides doing cleaning work. He used to be paid from P. L. Account. He worked from 9 A.M. till 6 P.M. every day. The Branch Manager had sent letters to higher authorities for his regularisation in service.

7. The contention of the management, already mentioned above, in short, is that the engagement of the workman was done neither in accordance with the prescribed procedure of recruitment nor by the person authorised to do the same. Under the circumstances the initial appointment/engagement of the workman was illegal and invalid. The workman did never work continuously for 240 days in a calendar year. Hence, according to the Management there was no relationship of employer and employee between the management and the workman. Under the circumstances, according to the management, the workman can not claim regularisation in service. The decisions reported in 2006-Lab- I. C. 4046 (Supreme Court) and 2004 (8) Supreme-453 have been cited on behalf of the management to nullify the claim of regularisation in service made by the workman. In the first case (2006 Lab-I. C. 4046) Surendra Prasad Tiwary Vs. Uttar Pradesh Rajya Krishi Utpadan Mandi Parishad & others Surendra Prasad Tiwary was appointed for a fixed period and continued in service for 14 years because of the interim order granted by the High Court. Thus the facts of the said case is quite different from the instant case of Shyam Paswan. The 2nd case cited on behalf of the management 2004(8) Supreme-453 (Mahendra Lal Jain & Other Vs. Ludore Development Authority & Others) also is different from the instant case and none of the cases cited on behalf of the management is under Industrial Disputes Act. Hence I find that the said two decisions cited on behalf of the management do not apply in the instant case and the management can not get any support from the said cases.

8. Section 2(S) of Industrial Disputes Act, 1947 defines workman as follows:

“workman” means any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or

implied, and for the purpose of any proceeding under this Act in relation to an industrial dispute, include any such person who has been dismissed, discharged or retrenched in connection with or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person-

(i) who is subject to the Air Force Act, 1950 (45 of 1950), or the Army Act, 1950 (46 of 1950), or the Navy Act, 1957 (62 of 1957); or

(ii) who is employed in the police service or as an officer or other employee of a prison; or

(iii) who is employed mainly in a managerial or administrative capacity; or

(iv) who, being employed in a supervisory capacity, draws wages exceeding one thousand six hundred rupees per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature.)

In the case of Mithilesh Kumar Singh Vs. the State of Bihar & Others [PLJr 1994 (2)-249] it has been observed that the idea of invalid appointment is quite foreign to the Scheme of the Industrial Disputes Act, Section 2(s) of the Act which defines 'Workman' does not have any such distinction and the definition is couched in the widest term. Any person including an apprentice doing any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward would qualify as a workman notwithstanding whether the contract of employment was express or implied. Under the circumstances there can be no dispute that Shyam Paswan is a 'workman' under the management of Bank of India. It is not the case of any party that the workman has not been paid rather it is an admitted fact that the workman was paid by the management for the work done by him. Under the circumstances and in view of the above said observation of the Hon'ble Court the management can not raise the plea that the appointment/engagement of Shyam Paswan as Safai Karamchhari was invalid and not by a person having authority to do the same.

9. I have already discussed above that Shyam Paswan is a workman under the management of Bank of India, Muzaffarpur Zone, Muzaffarpur and his engagement as such can not be said invalid or illegal. I have already mentioned that M.W.I has admitted in his statement before this Tribunal that Shyam Paswan worked as casual worker in Rajkharwar branch of Bank of India. According to M.W.I Shyam Paswan worked occasionally and he never worked 240 days in a calendar year. The workman Shyam Paswan has stated that he works in the said branch of Bank of India from 29-3-1990, the date on which the branch started functioning. Both the parties have filed the photo copies of letter dated 22-8-1991 and 16-2-1993 of the branch

Manager to Regional Manager. The letter dated 22-8-1991 is Ext. M/1 on behalf of the management and Ext.W on behalf of workman while letter dated 16-2-1993 is Ext. M/2 on behalf of the management and Ext. W/1 on behalf of workman. In both the letters it has clearly been mentioned that Shyam Paswan is working continuously from the date of opening of the branch as Safai Karamchhari. In the letter dated 16-2-1993 it has clearly been mentioned that Shyam Paswan worked continuously in place of 240 days and he is being paid for the same. It has also been mentioned that there is no other sweeper posted in the branch. In the letter dated 22-8-1991 a recommendation for his regularisation in service has also been made. The letter dated 16-2-1993 appears to have been sent in reply to the letter of the Regional Office, Muzaffarpur. I may mention that the management has filed the photo copies of letter dated 8-6-2000 and 22-6-2000 (not exhibited) which are on record in which also it has been reported by the Branch Manager to Regional Manager that Shyam Paswan is working continuously from the date of opening of branch except on Sundays and Holidays. The aforesaid letters of branch manager clearly prove that Shyam Paswan is working as Safai Karamchhari in the Bank of India Rajkharwar branch continuously and has worked more than 240 days in several calendar years.

10. The management has filed the photocopy of letter dated 13-7-2000 of the Branch Manager (Ext.M/3) in which it has been reported that Shyam Paswan worked less than 240 days every year. That letter is contradictory to earlier letters of the Branch Manager dated 22-8-1991, 16-2-1993, 8-6-2000 and 22-6-2000 in which it has been accepted in clear and unambiguous words that Shyam Paswan works as casual worker continuously from the date of opening of the branch. It has not been mentioned as to on what basis the branch manager changed the version in letter dated 13-7-2000 and on what basis the calculation of days less than 240 days was done. Admittedly the management has not maintained the attendance register or salary book of workman Shyam Paswan and if it all the management has any such document why the same has been withheld. Under the circumstances I am not inclined to attach any value to the letter dated 13-7-2000 on which the management has tried to show that the workman did never work 240 in a calendar year. From the earlier letters of the Branch Manager, already mentioned above it is amply proved that the workman has been working under the management of Bank of India as Safai Karamchhari in Rajkharwar branch from the date of opening of the Branch in March, 1990 and has worked more than 240 days continuously in several calendar years. Under the circumstances I find and hold that there is relationship of employer and employee between the Bank management and Shyam Paswan.

11. From the discussions made in the preceeding paragraphs it comes out that workman Shyam Paswan worked on the post which is not temporary in nature rather

the same is of permanent nature, he is working continuously from 29-3-1990 the date of opening of Rajkharwar branch of Bank of India and has put in service more than 240 days in more than 12 calendar years before raising the industrial dispute and is still continuing in the service of the Bank. The management has not produced any thing to show that the management does not require the services of a Safai Karamchhari. There is no dispute on the point that the workman raised industrial dispute for regularisation before the Asst. Labour Commissioner (Central), Patna but the conciliation failed. Under the circumstances should the Bank management be allowed to take services of the workman as casual worker for the whole of his life without regularising his services and without giving him the status of a permanent workman? To my mind, it will not only be illegal it will also be unjust. Under the circumstances I find and hold that the action of the management of bank of India, Muzaffarpur Zone, Muzaffarpur in denying regularisation of service of Shri Shyam Paswan, Safai Karamchhari is not only illegal it is unjust also. Point Nos. (i) & (ii) are decided accordingly.

Point No. (iii):

12. Keeping in view the discussions made above and the findings arrived at I find and hold that workman Shri Shyam Paswan deserves regularisation in service w.e.f. 29-3-1991 i.e. after one year of his working in the branch under the management of Bank of India, Muzaffarpur Zone, Muzaffarpur.

13. In the result I find and hold that the action of the management of the Bank of India, Muzaffarpur Zone, Muzaffarpur in denying regularisation of service of Shri Shyam Paswan, Safai Karamchhari is illegal and unjust. Shri Paswan deserves regularisation in service w.e.f. 29-3-1991 within two months from the date of publication of the Award.

14. And this is my award.

Dictated & corrected by me.

VASUDEO RAM, Presiding Officer

नई दिल्ली, 3 जनवरी, 2008

का.आ. 217.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इंडियन बैंक के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नं. 2, चंडीगढ़ के पंचाट (संदर्भ संख्या 585/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-1-2008 को प्राप्त हुआ था।

[सं. एल-12012/178/98-आई आर (बी-II)]

राजिन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 3rd January, 2008

S.O. 217.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central

Government hereby publishes the Award Ref. No. 585/2005 of the Central Government Industrial Tribunal-cum-Labour Court No 2, Chandigarh as shown in the Annexure, in the Industrial Dispute between the management of Indian Bank and their workmen, received by the Central Government on 3-1-2008

[No. L-12012/178/1998-IR (B-II)]

RAJINDER KUMAR, Desk Officer

ANNEXURE

**CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT-II, CHANDIGARH**

PRESIDING OFFICER: SHRI KULDIP SINGH

CASE I. D. No. 585/2005

Registered on : 23-8-2005

Date of Decision : 5-8-2007

G. D. Goyal

...Petitioner

S/o Shri Ramchand

C/o Shri Tek Chand Sharma

25, Sant Nagar,

Civil Lines Ludhiana

Versus

The Management Indian Bank,

...Respondent

Zonal Office, IB Upper Ground

Floor, World Trade Centre,

Baber Road, New Delhi

Through ITS Zonal Manager

APPEARANCE

For the Workman : Messrs Tek Chand Sharma
And R. K. Guatam,
Advocates

For the Management : Shri H. C. Gupta And Others
Advocates.

AWARD

The following reference was received from Ministry of Labour, Government of India vide their No. L-12012/178/98/IR (B-II) dated 8th March, 1999:—

“Whether the action of the management through Zonal Manager Indian Bank, New Delhi to treat the absence from duty of Sh. G. D. Goyal, Clerk as voluntary cessation of employment w.e.f. 15-9-94 by invoking clause 17(c) of bipartite settlement is just and legal? If not, what relief to the concerned workman is entitled to and from which date?”

The reference was entered in the concerned register and notices were issued to the parties who appeared through their representatives and later on through their counsel. The workman filed his Claim Statement and supported the same with his own affidavit. The Management filed their Written Statement with the affidavit of their Chief Manager, V.K. Sahota. The parties placed on record the copies of a number of documents. The Management also filed the affidavit of Shri Rakesh Verma

and Tek Singh as their witnesses. At the request of the workman the Management placed on record photo copies of the documents. The workman appeared as a witness, whereas the Management examined Messrs. Tek Singh and Rakesh Verma as their witnesses.

The claim of the workman is that he had joined service with the Management on 4th Dec., 1976 as Clerk; that during the course of his employment he fell ill and requested for leave. He was also involved in domestic problems, therefore, he remained away from his duties but submitted medical certificates. He also responded to the communication from the Management Bank; that he received a letter dated 16th Sep., 1994 whereby he was informed that since he has not reported for duty nor has submitted his explanation within 30 days of the notice the Management has treated him having retired from service voluntarily from the close of office hours on 15-9-1994 under clause 17, sub clause C, of the bi-partite settlement; that the claim of the Management was wrong since he had reported for duty in January and February after the purported notice dated 21 st January, 1994 is claimed to have been issued. Moreover, after the workman joined service, the validity of the notice became meaningless; that the voluntarily retirement of the workman dated 15th Sep, 1994 was illegal, arbitrary and motivated. It was also in violation of principles of natural justice. The Management further violated the law as they did not pay any compensation to the workman nor the wages for the notice period. The workman was forced to give letter of consent to accept voluntarily retirement as he was told that they will not pay him the withheld dues so long the letter of consent is not given. Therefore, the workman had to do that because he was facing financial problems due to his ill health.

The workman has further claimed that the absence of the workman, without leave or overstaying the leave, was a misconduct dealt under paragraph 521 of the Shastri/Desai Award read with bi-partite settlements. He was not governed by clause 17 sub clause C of the bi-partite settlement, therefore, his voluntary retirement was illegal. He has also claimed that he had remained without work after the termination of his services as he could not secure one. Moreover, the Management was not entitled to raise the plea of the workman having remained without leave in the year 1992, 1993 and 1994 as the leave for that period was sanctioned in his favour. Moreover, the Management had not taken any action against him. He has prayed for reinstatement of the workman with full back wages and continuity in service.

The Management has opposed the claim of the workman. Admitting the contents of paragraphs 1 to 3 of the claim petition it is submitted by them that the workman was governed by Shastri/Desai Awards besides the bi -partite settlements dated 19th October, 1966 as amended up to today. They further stated that though no

charge sheet was served upon the workman, but his work was not satisfactory as he was habitual of remaining absent from duty and according to the record he had attended the duty only for few days during the year 1992 to 1994. They have further denied that the absence of the workman was due to his sickness as in the year 1992 he was allowed leave on domestic grounds. Even in the year 1993 he applied leave on domestic grounds and so as to avail of leave, fare concession was also demanded, but he did not submit any application for leave during 1 st March to 11th March, 1993. On 18th Nov., 1992 the workman was given a caution notice for his unauthorized absence and was directed to improve his attendance. Despite that he again absented from duty and reported back on 20th Nov., 1993; that provisions of 17-C of the bi-partite settlement were invoked against him. He worked only for 9 days only during the period 20th Nov., to 9th Dec., 1993. It is further stated by them that the rules did not permit an employee to remain absent from duty continuously and report for duty only at his convenience. The letter dated 16th Sep., 1994 was issued to the workman in the circumstances and it had no legal infirmity. Before that the Management had issued a letter dated 4th Nov., 1993 intimating him that he was absent from duty continuously, without the sanction of leave and was advised to report for duty within 30 days. He was further asked to give satisfactory explanation for this. It was in response to that the workman joined service and submitted a letter dated 21st Nov., 1993. The workman did not mend his ways, therefore, a notice dated 21st Jan., 1994 was issued to him under Clause 17 Sub clause C of the bi-partite settlement. Thereafter the workman joined on 19th Feb., 1994 and again absented from duty on 20th Feb., 1994. The Management Bank waited for him for six months and only thereafter the Bank reacted as it had no other alternative except to treat the workman having voluntarily retired w.e.f. 15th Sep., 1994. The intimation to that effect was given to him on 16th Sep., 1994.

The case of the Management further is that the workman was given a notice under Clause 17-C of the bi-partite settlement and the workman reported for duty, but again absented within 30 days from the date of reporting for duty. Therefore, there was no necessity to issue fresh notice to him, after his absence from 20th Feb., 1993. It is also their case that the workman had given his consent, accepted the voluntary retirement vide his letter dated 8th Dec., 1994. He asked for clearance of his dues discharge certificate as he was planning to start his own business. The Management relied upon four documents which they have claimed are executed by the workman. The documents, therefore, clearly suggest that the workman had accepted the retirement, that is why, he accepted the retiral benefits. It is also claimed that the voluntarily cession of employment of the workman was effected on 16th Sep., 1994 and he has raised the dispute on 15th Oct., 1997 i.e. after a lapse of three years and one month. Thus his claim is bad for laches as well.

The reference relates to the action of the Management in treating the absence of the workman from duty from 16th Sep., 1994, as voluntarily cession of employment, in terms of Clause 17-C of the bi-partite settlement. To know the legality or justification of the action of the Management, the statement of the workman is very relevant. By his statement he proved his affidavit exhibit W-1 and the documents attached therewith as annexure W-2. He further admitted the contents of documents A, B and C. When cross-examined he admitted that he had received notice dated 4th Nov., 1993, which he had replied and also reported for duty within the period prescribed. He admitted that he had received other notices exhibit M-2 and M-3 and a letter dated 2nd May, 2000. He, however, denied that he had received letter dated 18th Nov., 1992 mark F-1. He admitted the contents of receipt dated 18th Dec., 1994, mark F-2 and the contents of para 3 of the Written Statement, but stated that he had served the Management even on holidays. He categorically denied having remained absent from duty from 11th April, 1993 to 4th Nov., 1993 and stated that he had applied for leave for the period during which he remained absent from duty a fact that which is acknowledged by Exhibit M-5. He admitted that he had not re-applied notice dated 4th Nov., 1993 as he had reported for duty in response to that notice. He further stated that he had worked for the Management from 20th Nov., 1993 to 9th Dec., 1993; and that he had not worked for the Management from 10th Dec., 1993 to 18th Feb., 1994, due to domestic problem. He admitted that he had not applied for leave for the period 10th Dec., 1993 to 18th Feb., 1994 nor he had informed the Bank about his absence. He claimed that after having attended to his duties on 19th Feb., 1994, he was not allowed to attend to his duties from 21st Feb., 1994, on 20th Feb., 1994 it was Sunday. The workman further stated that he had not served the Management thereafter till 16th Sep., 1994, when he received the notice. He claimed that he had been coming to Bank but was not allowed to join the duties on the plea that the directions have not been received from the higher authorities. He admitted that when he was not allowed to join duties he had not put that in writing. He further admitted that after 21st Feb., 1994 he had not made any representation nor issued any legal notice that he is not being allowed to join his duties w.e.f. 1st Jan., 1994. He also admitted that after remaining absent from duty when he rejoined on 9th Feb., 1994, but he did not apply for grant of leave for the period he remained absent after 16th September. He further admitted not to have made any representation or submitted his explanation about his absence from duty. He claimed that he was getting assurances, on visiting the Bank, and was advised to take his dues as he was not interested in job. He admitted that at the time of receiving his dues in the year 1995, he did not say that he was receiving the dues under protest, as he had filed the present case; that all his applications were submitted by Tek Singh, who was Manager at that time.

The Management has produced two witnesses, in support of their claim, whose statements are equally relevant for answering the reference. It may be noted here that Tek Singh, was named by the workman, in his statement, as a person who had submitted his applications for the consideration of the higher authorities. When Cross examined by the workman Shri Tek Singh deposed that he has retired from the service of the Management Bank; and that he had served in the Ludhiana Branch of the Management twice and at the time of his second posting the workman was already posted in that Branch who had served under him from 1988. According to him the workman was assigned the job of handling of the Cash besides used to collect cash, from the Branches of the Bank. He was also helping in counting the cash, but at his own and his work and conduct was upright. He admitted that the applications exhibit W-1 to W-6/MW-3/8, contained the dates on which the same were made, but stated that it was to be checked whether the dates so put were correct. He denied that the workman had made the applications on different dates; and that the applications were accompanied by medical certificates. He placed on record the original applications and stated that it is wrong to say that para 3 and 4 of his affidavit were not based on record. He further denied that the workman had made applications from time to time, but he had kept them pending and had forwarded the same as a bunch. He admitted that the workman had recorded his attendance in the register on 19th Feb., 1994 and stated that the workman was earlier also coming to the Bank and recorded his attendance in the register, which was kept in the office. He denied that they had not allowed the workman to attend the office after 19th Feb., 1994 on the ground that he had the instructions from Zonal Office had not been received. He categorically stated that the workman had not come to him asking to allow him to join his duties although he had been coming to the Bank during the period he claimed to be on leave and even after 19th Feb., 1994. He identified the signatures of Shri Shamsher Singh, Chief Manager, of Ludhiana Branch on exhibit W-20 to W-22 and stated that he does not remember that the workman had joined his duties on 19th Dec., 1990 or that the Manager had declared the workman absent from duty on 20th Nov., 1993. He, however, denied that the period of absence of the workman was regularized upto 28th Dec., 1993. To his knowledge he had not conveyed the acceptance or rejection of the leave application to the workman since no decision had been taken. He further denied that the workman had made repeated representations after 19th Feb., 1994, to allow him to join his duties as he had not received any such representation. He denied any knowledge about the termination of services of the workman or holding of any inquiry. He also could not say that the services of the workman were terminated in terms of Section 17 clause C of the I.D Act. He further denied that the workman had protested, before Shamsher Singh, Chief Manager or that the said Chief Manager had

advised the workman to accept the compensation and then raise the question before the appropriate Government.

The other witness of the Management, Rakesh Verma, when cross examined stated that while posted in circle office Chandigarh, he had attended to the case of the workman; that at the time of termination of services of the workman, the control of the Bank was with the Zonal Office; that the workman was posted in Ludhiana Branch, which was under the control of Regional Office, Chandigarh. He further stated that the leave application of the employees used to be sanctioned by the Regional Office; that the workman remained on unauthorized leave for quite sometime i.e. without leave and prior information. He had made applications exhibit MW-3 to MW-8 in one bunch which were forwarded, as such, to the Regional Office. As per record there were no medical certificates attached therewith. He admitted that the applications were received *vide* letter exhibit MW-2 and stated that though it was mentioned in the applications that the same have the enclosure as medical certificates, but those were not attached. He admitted that the Branch Manager had not made his remarks on the applications although the letter forwarding the same contained the mention about the non enclosure of the certificates. He denied the knowledge whether or not the regional office had inquired from the Branch Manager as to why the applications were not supported by medical certificate or what action the Regional officer had taken on the applications. He further stated that since the workman had remained absent from duty even after making the application, therefore, the Management had not taken any action thereon; that the workman had not joined the duties even after he was given the last notice. Admitting that the workman had joined duties on 19th Feb., 1994, for a day, in compliance to the second notice, he denied that the Branch Manager had not allowed the workman to perform duties on 21st Feb., 1994 or thereafter till the permission to join was received from the Regional Office. He further denied that the workman had been reporting for duty regularly w.e.f. 21st Feb., 1994, till his services were terminated. He claimed that the Zonal Office had retired the workman w.e.f. 15th Sep., 1994. He denied the suggestions that since the Zonal Office had not taken any decision on the leave application, so it was to be presumed that the applications have been accepted. According to him no charge sheet was required to be served upon the workman for his continuous absent and only three notices were required to be sent. He denied that the principles of natural justice were not followed in the case of the workman.

On further cross examination the witness denied that the workman had been reporting for duty on 21st Feb., 1994 till Sep., 1994. He claimed that the Zonal Officer was informed that the workman has not joined his duties from 21st Feb., 1994; that the Bank authorities had not asked the workman to leave the job and put his claim for payment. He

denied that the workman had come, but was not allowed to join his duties by Shamsheer Singh, the Chief Manager rather the workman had requested in writing, to settle his accounts by F-2. He further denied that the letter dated 8th Dec., 1994 was given by the workman under forced circumstances. Admitting that after notice, M-2, the workman had reported for duty on 19th Feb., 1994, but denied that the said attendance was not considered while terminating the services of the workman on 16th Sep., 1994. He further stated that the period of absence of duty is regularized on the officials applying for the same and is not done automatically. He further denied that the workman had not voluntarily ceased from service rather he had done so at his own will *vide* letter dated 5th December. He denied the knowledge that the workman is without job, after the date of his termination. He further stated that no inquiry was held before terminating the service of the workman as the same was done on the basis of the record. He further denied that the workman had made the applications for leave on different dates.

I have gone through the file and have also considered the submissions made by the representatives of the parties and their counsel.

The question which has fallen for the consideration of this Tribunal is whether the action of the Management treating the absence of Shri G.D Goyal, workman, in this case as having voluntarily ceded his employment, on 15th Sep., 1994, in terms of Clause 17-C of the Bipartite Settlement, was just and legal and if not to what relief the workman is entitled to. As stated earlier the statement of the workman is very relevant so as to answer the reference. The workman proved his affidavit exhibit W-1, by which he claimed that he had joined the service with the Management on 4th Dec., 1976, as Clerk; that he remained on leave due to his ill health and compelling domestic problems. He submitted leave applications and then applications for extension of leave, along with medical certificates. In reply to this claim of the workman the Management stated that the work and conduct of the workman was not satisfactory; that during the period 1st January, 1992 to 15th Sep., 1994, the workman attended to his duties for few days, as detailed in para 3 of their Written Statement. When cross examined the workman admitted that he had received notice dated 4th Nov., 1993, another notice on 21st January, 1994, and the third notice dated 16th Sep., 1994. He further admitted to have received the notice dated 2nd May, 2000, pertaining to the gratuity. He admitted the contents of para No.3 of the Written Statement thereby admitted to have remained absent from duty on the days shown in para No.3 of the Written Statement. Thus it shows that in three years he attended to his duties with the Management only for 20 days. He, however, claimed that during that period, he attended to his duties on holidays, without showing as to on which date and what holidays. He has not produced any evidence to prove that claim. He, however, claimed

that during the year 1992 he had applied for leave on the ground of domestic problems. He further claimed that whenever he did not attend to his duties, he applied for leave and placed reliance on M-5.

Mark M-5 is a letter containing the detail of applications made by the workman during the period June, 1993 to Nov., 1993, which were forwarded by the Chief Manager, Ludhina Branch to Regional office Chandigarh. In this letter there is no mention of any application having been made by the workman during the year 1992. This letter also shows that the applications were not supported by any document, thereby, belying the claim of the workman that he had supported his applications with medical certificates. During the course of consideration of the present reference the workman did not produce any evidence to show that he was ill and was under the treatment of such and such doctor; and that what domestic problem he had. He has utterly failed to show that he was ill or involved in domestic problems which prevented him from attending to his duties. Thus it is proved that the workman remained absent from duty for the days shown in para 3 of the Written Statement.

Now the question arises whether the workman had applied for grant of leave during the period he remained absent from duty. In his own statement he admitted that during the period of his absence he had not applied for any leave nor he had informed the Bank about his absence. He further admitted that he had not performed duty in the Bank till 16th Sep., 1994 when the third notice was served upon him. He further admitted that he had come to the Bank a number of times but he was told that he can be allowed to join only after a direction is received from the higher authorities. The workman thus admitted in his own words that during the period he remained absent from duty, he had not applied for grant of leave nor he had informed the Management about his absence. He nowhere claimed that he had sought and obtained prior permission of the Management to remain on leave.

There is also no support to his claim that he was not allowed to join duties on 21st Feb., 1994 as he admitted that he had not put in writing that he was reporting for duty. His claim is that in his presence the Branch Manager had talked to somebody on telephone and told him thereafter that he cannot be allowed to join his duties. The workman further admitted that on 19th Feb., 1994 he joined his duties; after the notice from the Management. However, even on that day he had not made application about the grant of leave for the period he had remained absent from duty. He further admitted that during the year 1994, Shri Tek Singh was the Manager, who had sent all his application for consideration. From the statement of the workman, therefore, it is clear that he had remained absent from duty for three years and during that period he attended to the duties only for 20 days; and that he did not make applications for grant of leave, before proceeding on leave

nor thereafter, even when he was coming to his office. It is further shown that he had not submitted any document in support of his applications; and that the applications were forwarded in the year 1994; that is much after the event of his absence from duty.

During the course of consideration of the present reference also the workman did not produce evidence, documentary or oral, to support his claim that he had remained absent from duty due to his ill health and domestic problems and, the ill health and domestic problems were such that he could not attend to his duties. He has also failed to prove that he had regularly submitted the applications for grant of leave and had supported the same with medical certificates. He has also not produced, the doctor as witness and his record to support that he was really ill and remained under the treatment of that doctor and his ill health was such that he could not perform his duties. The least he could show that he had informed the Management about his absence well in time or that he had sought their permission to be on leave. Nothing such has been shown. On the other hand his conduct, after his release from service, shows that he had no grievance about that and his approaching the labour authorities was after thought. He has not only accepted his retiral benefits without protest but also requested *vide* exhibit F-2 to the Zonal Manager to adjust his liabilities of housing and other loan taken from the Management and for issuance of discharge certificate so that he could start his business.

After going through the record of the file I am satisfied that the action of the Management to treat the absence from duty of Sh. G.D. Goyal, Clerk as voluntary cessation of employment w.e.f. 15th of Sept, 1994 by invoking clause 17 C of the Bipartite Settlement, was just and legal. It is on record that the Management had given sufficient notices to the workman to join his duties, but he failed to do that. There was also no violation of principles of Natural Justice in the case and proceeding done by the Management were sufficient to term it as fair and proper enquiry, before the release of the workman from their service. In fact after the admission of workman having remained absent even after notices, no inquiry was necessary. The catena of authorities relied upon by the workman are not applicable to the facts of the present case. Therefore, the workman is not entitled to any relief. The reference is answered against him. Let a copy of this award be sent to the appropriate Government for necessary action and file be consigned to records after due completion.

KULDIP SINGH, Presiding Officer

नई दिल्ली, 3 जनवरी, 2008

का.आ. 218.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार में टिस्को के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण,

(सं. 2), धनबाद के पंचाट (संदर्भ संख्या 113/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-1-2008 को प्राप्त हुआ था।

[सं. एल-20012/64/2005-आई आर (सी-1)]

स्नेह लता जवास, डेस्क अधिकारी

New Delhi, the 3rd January, 2008

S.O. 218.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 113/2005) of the Central Government Industrial Tribunal (No.-II) Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. TISCO, and their workman, which was received by the Central Government on 3-1-2008.

[No. L-20012/64/2005-IR (C-I)]

SNEH LATA JAWAS, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD
PRESENT**

Shri Nagendra Kumar, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1)
(d) of the I.D. Act, 1947

REFERENCE NO. 113 OF 2005

PARTIES: Employers in relation to the management of 6
& 7 Pits Colliery of Tisco, and their workman.

APPEARANCES:

On behalf of the workman : None

On behalf of the employers : Mr. D.K. Verma,
Advocate.

State : Jharkhand

Industry : Coal.

Date, Dhanbad, the 26th December, 2007

AWARD

The Govt. of India, Ministry of Labour and Employment in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/64/2005-I.R. (C-1), dated, the 19th December 2005.

SCHEDULE

“Whether the demand of the Rashtriya Colliery Mazdoor Sangh from the management of TISCO 6 & 7 Pits Colliery that Sh. Raju Singh, (TW PN 220713) S/o Sh. Rur Singh, discharged from service on medical grounds, may be given employment on regular basis is justified? If so, to what relief is the workman or his dependant son entitled and from what date?”

2. In this reference neither the concerned workman nor his representative appeared before this Tribunal. Management side however, made appearance through their authorized representative. It appears from the record that Regd. Notice and show cause notice were issued to the workman/sponsoring union. It also further appears from the record that the workman/sponsoring union have not only failed to comply with the provision of Rule 10(B) of the I.D. (Central) Rules, 1957 but also even did not consider

necessary to respond to the notices issued by this Tribunal. Gesture of the workmen/sponsoring union if is taken into consideration will expose clearly that they are not interested to proceed with the hearing of this case. Under such circumstances, this Tribunal finds no ground to adjourn the case suo moto for days together. Hence, the case is closed and a ‘No dispute’ Award is passed in this reference presuming non-existence of any industrial dispute between the parties.

NAGENDRA KUMAR, Presiding Officer

नई दिल्ली, 3 जनवरी, 2008

का.आ. 219.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार में बी. सी. सी. एल. के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, सं. 2, धनबाद के पंचाट (संदर्भ संख्या 39/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-1-2008 को प्राप्त हुआ था।

[सं. एल-20012/178/2005-आई आर (सी-1)]

स्नेह लता जवास, डेस्क अधिकारी

New Delhi, the 3rd January, 2008

S.O. 219.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 39/2006) of the Central Government Industrial Tribunal (No.-II) Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. B.C.C.L., and their workman, which was received by the Central Government on 3-1-2008.

[No. L-20012/178/2005-IR (C-I)]

SNEH LATA JAWAS, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD
PRESENT**

Shri Nagendra Kumar, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1)
(d) of the I.D. Act, 1947

REFERENCE NO. 39 OF 2006

PARTIES: Employers in relation to the management of
Sudamdih Incline Mine of M/s. BCCL and
their workman.

APPEARANCES

On behalf of the workman : Mr. Raghunandan Rai,
Working President,
Jharkhand Mines Lal
Jhanda Mazdoor Union.

On behalf of the employers : Mr. U.N. Lal, Advocate.
State : Jharkhand Industry : Coal.

Dated, Dhanbad, the 26th December, 2007

AWARD

The Govt. of India, Ministry of Labour & Employment in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide

their Order No. L-20012/178/2005-I.R. (CM-1), dated, the 12th June, 2006.

SCHEDULE

“Whether the demand of the JMLJMU from the management of BCCL, Sudamdih Colliery that Sh. Deepak Kr. Singh may be regularised as Trammer justified? If so, to what relief is the concerned workman entitled and from what date?”

2. In this reference both the parties appeared through their authorized representative but did not file their respective Written Statement, Documents etc. Subsequently when the case was fixed both the parties appeared and the representative of the workman by filing a petition submitted prayer to pass a ‘No dispute’ Award in this case on the ground that the dispute in question has already been settled. The management side raised no objection in view of such prayer made by the workman.

Perused the petition and heard both sides. Since the dispute in question has already been settled there remains no more dispute to be adjudicated by this Tribunal and accordingly a ‘No dispute’ Award is passed in this reference presuming non-existence of any industrial dispute between the parties.

NAGENDRA KUMAR, Presiding Officer.

नई दिल्ली, 3 जनवरी, 2008

का.आ. 220.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार में बी. सी. सी. एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, सं. 2, धनबाद के पंचाट (संदर्भ संख्या 64/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-1-2008 को प्राप्त हुआ था।

[सं. एल-20012/472/2000-आई आर (सी-1)]

स्नेह लता जवास, डेस्क अधिकारी

New Delhi, the 3rd January, 2008

S.O. 220.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 64/2001) of the Central Government Industrial Tribunal No.-II Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. B.C.C.L., and their workmen, which was received by the Central Government on 3-1-2007.

[No. L-20012/472/2000-IR (C-I)]

SNEH LATA JAWAS, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT

SHRI NAGENDRA KUMAR
Presiding Officer

In the matter of an industrial Dispute under Section 10(1) (d) of the I.D. Act, 1947

REFERENCE NO. 64 OF 2001

PARTIES: Employers in relation to the management of M/s. BCCL and their workman.

APPEARANCES

On behalf of the workman : Mr. K. Chakravorty,
Advocate.

On behalf of the employers : Mr. R.N. Ganguly,
Advocate.

State : Jharkhand

Industry : Coal.

Dated, Dhanbad, the 26th December, 2007

AWARD

The Govt. of India, Ministry of Labour & Employment in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/472/2000-I.R. (C-1), dated, the 19th February, 2001.

SCHEDULE

“Whether the action of the management M/s. BCCL in not regularising the services of the workman Dhirendra Chandra Pal as Auto Electrician in Dobari Colliery under Bastacolla Area is justified and legal? If not, to what relief is the workman entitled and from what date?”

2. In this case both the parties appeared through their authorized representative and filed their respective Written Statement, Documents etc. Subsequently at the stage of oral evidence the representative of the workman by filing a petition submitted prayer to pass a ‘No dispute’ Award in this case as the concerned workman involved in this dispute is not interested to contest the case. No objection raised on behalf of the management in view of such prayer of the workman side.

Perused the petition and heard both sides. Since the concerned workman of this case has expressed his reluctance to proceed with the hearing of this case, I do not find season to drag on the same for months together Under such circumstance, a ‘No dispute’ Award is passed in this reference presuming non-existence of any industrial dispute between the parties.

NAGENDRA KUMAR, Presiding Officer.

नई दिल्ली, 3 जनवरी, 2008

का.आ. 221.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार में बी. सी. सी. एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, सं. II, धनबाद के पंचाट (संदर्भ संख्या 276/99)

को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-1-2008 को प्राप्त हुआ था।

[सं. एल-20012/24/99-आई आर (सी-1)]
स्नेह लता जवास, डेस्क अधिकारी

New Delhi, the 3rd January, 2008

S.O. 221.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 276/99) of the Central Government Industrial Tribunal No.-II Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. B.C.C.L., and their workmen, received by the Central Government on 3-1-2008.

[No. L-20012/24/99-IR (C-I)]

SNEH LATA JAWAS, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT, DHANBAD

PRESENT

SHRI NAGENDRA KUMAR,
Presiding Officer

In the matter of an Industrial Dispute under Section 10(1)
(d) of the I. D. Act, 1947

REFERENCE NO. 276 of 1999

Parties: Employers in relation to the management of
M/s. BCCL and their workmen.

APPEARANCES

On behalf of the workman : Mr. B.B. Pandey,
Advocate.

On behalf of the employers : Mr. H. Nath, Advocate.

State : Jharkhand

Industry : Coal.

Dated, Dhanbad, the 26th December, 2007

AWARD

The Government of India, Ministry of Labour and Employment in exercise of the powers conferred on them under Section 10(1)(d) of the I. D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/24/99-I.R. (C-I), dated, the 15th July, 1999.

SCHEDULE

“Whether the action of the management of Loyabad Colliery of M/s. BCCL in not regularising S/Shri Hiralal Choudhary and 17 others, Domestic Coal Suppliers, as permanent workers, is justified? If not, to what relief the concerned workmen are entitled?”

2. In this case both the parties appeared through their authorised representative and filed their respective written statement, document etc. The case then proceeded

along its course. Subsequently at the stage of oral evidence of the workmen, the representative of the workmen by filing a petition submitted prayer to pass a ‘No dispute’ Award in this case as the concerned workmen involved in this reference are into interested to proceed with the hearing with it. No objection raised on behalf of the management in view of such prayer made by the workman side.

Perused the petition and heard both sides. Since the concerned workmen of this reference are not interested to proceed with the hearing of this case and as no objection raised on behalf of the management in view of such prayer of the workmen, I find no scope to proceed further in the matter of hearing. Under such circumstances, a ‘No dispute’ Award is passed in this reference presuming non-existence of any industrial dispute between the parties.

NAGENDRA KUMAR, Presiding Officer

1. Sri Hiralal Choudhry, S/o Natho Pasi, At. Loyabad, Po. Bansjora, Distt. Dhanbad.
2. Sri Ganesh Pd. Sinha, S/o Sri Raj Kumar Sinha, At. Kayasth Muhalla, Po. Japla, P.S. Husainabad, Distt. Palamu.
3. Sri Binod Kumar Chouhan, S/o R.L.P. Chouhan, At. Loyabad Kankani No. 4, PO Bansjora, Dhanbad.
4. Sri Deo Shanker Jha, S/o Sri Nand Lal Jha, At. Gamharia, Po. Benipatti, Distt. Madhubani.
5. Sri Jitendra Kr. Choudhry, S/o Krishnadeo Choudhry, At. Hasia, Po Pararia, Distt. Banka.
6. Sri Prashant Kumar S/o Sri Kant Sharma, At. & PO Ajuara, Distt. Barli.
7. Sri Lal Pratap Singh, S/o Jagjivan Singh, At. Dhorhara, PO Antu, Distt. Pratapgarh.
8. Sri Sanjiv Kumar Singh, S/o Rabindra Pd. Singh, At. & PO Jaitpur, Distt. Lakhisarai.
9. Sri Shiv Balak Pd. S/o Lakhan Mahto, At. Jagdishpur, PO Topgarh, Distt. Munger.
10. Sri Vinod Pratap Singh, S/o Prahlad Singh, At. Dhorhara, PO Antu, Distt. Pratapgarh.
11. Sri Sujit Kr s/o Sipahi Prasad, At Loyabad, Po Bansjora, Distt. Dhanbad.
12. Sri Sukhdeo Kumar, S/o Ayodhya Mahto, At. Bhualtand, PO Kadhar, Distt. Nawada.
13. Sri Binay Kumar Singh, S/o Ram Ayodhay Singh, at. Dhanusi, Po Ghataro, Distt. Vaishali (Hazipur)
14. Sri Santosh Kumar S/o Chandra Bhushan Singh, At & PO, Sadam, Distt. Lakhisarai.
15. Sri Mahawat Singh, S/o Nourang Singh, At. Dhorhara, PO Antru, Distt. Pratapgarh.
16. Sri Sanjay Kr. Singh, S/o Ram Sarup Singh, At. Ghughi, PO Balia, Distt. Aurangabad.

17. Sri Mukul Prasad, S/o Sidhnath Prasad, At. & PO Saraidhela, Distt. Dhanbad.
18. Sri Awadh Kr. Singh, S/o Baikunth Singh, At. Anandpura, (Basdiha) Gursaiya Karma, Distt. Aurangabad.

Your's faithfully,
N.S.V. Arivaran,

Asstt. Labour Commissioner (Central) Dhanbad-I

नई दिल्ली, 7 जनवरी, 2008

का.आ. 222.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै बी. सी. सी. एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण सं. 2, धनबाद के पंचाट (संदर्भ संख्या 10/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-1-2008 को प्राप्त हुआ था।

[सं. एल-20012/148/2005-आई आर (सी-1)]

स्नेह लता जवास, डेस्क अधिकारी

New Delhi, the 7th January, 2008

S.O. 222.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 10/2006) of the Central Government Industrial Tribunal No.-II, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. B.C.C.L., and their workman, which was received by the Central Government on 7-1-2008.

[No. L-20012/148/2005-IR (C-I)]

SNEH LATA JAWAS, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, (NO.2) AT DHANBAD

PRESENT

SHRI NAGENDRA KUMAR

Presiding Officer

In the matter of an industrial Dispute under Section 10(1) (d) of the I.D. Act, 1947

REFERENCE NO. 10 of 2006

Parties: Employers in relation to the management of Govindpur Area No. III of M/s. BCCL and their workman.

APPEARANCES

On behalf of the workman : None

On behalf of the employers : Mr. D.K. Verma,
Advocate.

State : Jharkhand

Industry : Coal.

Dated, Dhanbad, the 26th December, 2007

AWARD

The Govt. of India, Ministry of Labour and Employment in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/148/2005-IR (C-1), dated, the 12th January, 2006.

SCHEDULE

"Whether the action of the management of BCCL Govindpur Area-III in dismissing Sh. Shankar Chauhan from service w.e.f 20-10-2004 is just, fair and legal? If not, to what relief is the concerned workman entitled?"

2. In this case neither the concerned workman nor his representative appeared before this Tribunal. Management side however, made appearance through their authorized representative. It transpires from the record that registered notices and show cause notice were issued consecutively to the concerned workman/sponsoring union. In terms of Rule 10B of the I.D. Central Rules, 1957 it is mandatory on the part of the concerned workman/sponsoring union to file Statement of claim, list of reliances, documents evidence etc. before the Tribunal within 15 days from the date of receipt of the order of reference. The concerned workman/sponsoring union not only violated the above rules but also even did not consider necessary to respond to the notices issued by the Tribunal. Gesture of the workman/sponsoring union it is taken into consideration will expose clearly that they are not interested to proceed with the hearing of this case.

Under such circumstances, this Tribunal finds no ground to adjourn the case suo moto for months together. Hence, the case is closed and 'No dispute' Award is passed in this reference presuming non-existence of any industrial dispute between the parties.

NAGENDRA KUMAR, Presiding Officer

नई दिल्ली, 7 जनवरी, 2008

का.आ. 223.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै बी. सी. सी. एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, (सं. 2,) धनबाद के पंचाट (संदर्भ संख्या 3/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-1-2008 को प्राप्त हुआ था।

[सं. एल-20012/176/2004-आई आर (सी-1)]

स्नेह लता जवास, डेस्क अधिकारी

New Delhi, the 7th January, 2008

S.O. 223.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 3/2006) of the Central Government Industrial Tribunal (No.-II)

Dhanbad now as shown in the Annexure in the industrial dispute between the employers in relation to the management of M/s. B.C.C.L., and their workmen, which was received by the Central Government on 7-1-2008.

[No. L-20012/176/2004-IR (C-I)]

SNEH LATA JAWAS, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2 AT DHANBAD

PRESENT

SHRI NAGENDRA KUMAR,
Presiding Officer

In the matter of an Industrial Dispute under Section 10(1)
(d) of the I.D. Act, 1947

REFERENCE NO. 3 of 2006

Parties: Employers in relation to the management of
Govindpur Area No. III of M/s. BCCL and their
workman.

APPEARANCES

On behalf of the workman : None

On behalf of the employers : Mr. U. N. Lal, Advocate.

State : Jharkhand

Industry : Coal.

Dated, Dhanbad, the 26th December, 2007

AWARD

The Government of India, Ministry of Labour & Employment in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/176/2004-I.R. (C-1), dated, the 23rd January, 2006.

SCHEDULE

"Whether the demand of the Indian National Mines Official & Supervisory Staff Association (INMOSSA) from the management of BCCL, Govindpur Area No. III that workmen in Block IV and Aakashkivari may continue to be paid underground allowance irrespective of their deployment on surface or underground is justified? If so, to what relief are the concerned workmen are entitled?"

2. In this case neither the concerned workman nor their representative appeared before this Tribunal. Management side however, made appearance through their authorized representative. It transpires from the record that registered notices and show cause notice were issued consecutively to the concerned workman/sponsoring union. In terms of Rule 10B of the I.D. Central Rules, 1957 it is mandatory on the part of the concerned workman/sponsoring union to file statement of claim, list of reliances, documents evidence etc. before the Tribunal within 15 days from the date of receipt of the order of reference. The

concerned workmen/sponsoring union not only violated the above rules but also even did not consider necessary to respond to the notices issued by this Tribunal. Gesture of the workmen/sponsoring union if is taken into consideration will expose clearly that they are not interested to proceed with the hearing of this case.

Under such circumstances, this Tribunal finds no ground to adjourn the case suo moto for months together. Hence, the case is closed and a 'No dispute' Award is passed in this reference presuming non-existence of any industrial dispute between the parties.

NAGENDRA KUMAR, Presiding Officer

नई दिल्ली, 8 जनवरी, 2008

का.आ. 224.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ईस्ट कोस्ट रेलवे के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, भुवनेश्वर के पंचाट (संदर्भ संख्या 59/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 8-1-2008 को प्राप्त हुआ था।

[सं. एल-41011/12/2004-आई आर (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 8th January, 2008

S.O. 224.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 59/2004) of Central Government Industrial Tribunal-cum-Labour Court, Bhubaneswar, as shown in the Annexure, in the Industrial dispute between the management of East Coast Railway, and their workmen, received by the Central Government on 8-1-2008.

[No. L-41011/12/2004-IR (B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BHUBANESWAR

PRESENT

SHRI N. K. R. MOHAPATRA
Presiding Officer, C. G. I. T. -cum-Labour Court,
Bhubaneswar.

Industrial Dispute Case No. 59/2004

Date of Passing Award 26th December, 2007

Between:

The Management of the
Sr. Divisional Commercial
Manager, East Coast Railway,
Khurda Road, PO. Jatni, Dist.
Khurda, Orissa.

Ist Party—Management

And

203 GI/08-9

Their Workmen, represented
through The President,
S. E. Rly. Station Porter's Union
(AITUC), Mani Bhawan,
Bhawanipur, Kharagpur-721 301 2nd Party-Union

APPEARANCES

None : For 1st Party-
Management
None : For 2nd Party-Union

AWARD

The Government of India, in the Ministry of Labour, in exercise of Powers conferred by Clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) have referred the following dispute for adjudication vide their Order No. L-41011/12/2004-IR-(B-I), dated 18-10-2004:-

"Whether the action of the Management of E. Co. Rly., Khurda Road, by not considering the 72 licensed porters cases (as per list) for transferring license badges to their dependants is legal and justified? If not, to what relief the workmen are entitled to?"

2. After receipt of the above reference both the parties appeared and filed their Claim Statement and written statement thereon. While the matter was pending for settlement of issues, both parties showed a dilly dally attitude in not attending the court sincerely. However, in a latter stage the Management filed an additional counter on 10-4-2006 stating to have already considered 56 cases of porters for transfer of their Badge Licenses in favour of their dependants. The record shows that after the above petition of the Management the parties appeared on some occasion intermittently and ultimately since 15-1-2007 neither of them are appearing to pursue their cases, suggesting otherwise that they have perhaps resolved their dispute in the meanwhile.

3. Accordingly the reference is answered with the above observation.

Dictated and Corrected by me.

N. K. R. MOHAPATRA, Presiding Officer

नई दिल्ली, 8 जनवरी, 2008

का.आ. 225.-औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नं. 2, नई दिल्ली के पंचाट (संदर्भ संख्या 52/1996) को प्रकाशित करती है, जो केन्द्रीय सरकार को 07-1-2008 को प्राप्त हुआ था।

[सं. एल-12012/225/95-आई आर (बी-11)]

राजिन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 8th January, 2008

S.O. 225.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 52/1996) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, New Delhi as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Punjab National Bank and their workmen, which was received by the Central Government on 7-1-2008.

[No. L-12012/225/1995-IR (B-II)]

RAJINDER KUMAR, Desk Officer

ANNEXURE

**BEFORE THE PRESIDING OFFICER CENTRAL
GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT-II, NEW DELHI**

PRESIDING OFFICER : R. N. RAI

I. D. NO. 52/1996

IN THE MATTER OF:

Shri Narindra Kumar,
C/o. Shri Subhash Kaushik,
Secretary PNB SA,
Punjab National Bank,
Navyug Market,
Ghaziabad.

VERSUS

1. The Regional Manager,
Punjab National Bank,
Meerut "Region,
E.K. Road, Meerut.
2. The Chief Manager,
Punjab National Bank,
G.T. Road, Ghaziabad.
3. The Incharge,
Punjab National Bank,
Extension Counter,
K.D.B. Public School,
Ghaziabad.

AWARD

The Ministry of Labour by its letter No. L-12012/225/95-(IR(B-II)) Central Government Dt. 22-03-1996 has referred the following point for adjudication. The point runs as hereunder:

"Whether the action of the management of Punjab National Bank, Meerut in terminating the services of Sh. Narindra Kumar, Sub-Staff posted at Extension Counter, PNB, KDB Public School, Ghaziabad w.e.f. 12-09-1992 is legal and justified? If not, what relief is the said workman entitled to."

The claimant has filed claim statement. In the claim statement it is stated that the above mentioned claimant Sh. Narindra Kumar was employed by the management of the opposite party as Sub-staff on 08-11-1989 Sub-staff in the Extension Counter of the PNB at KDB Public School, Ghaziabad. The said extension counter is functioning under supervision and control of the branch of the said bank at G.T. Raod, Ghaziabad. No appointment letter was ever issued by the opposite party to the applicant. The applicant worked in the said extension counter for 616 days in the period w.e.f. 08-11-1989 to 12-09-1992 and more than 240 days in twelve calendar months during this period as it would be seen from the statement given below.

That on 12-09-1992 the management of the opposite party bank abruptly and illegally terminated the applicant's service from the bank without assigning any reason written or express notice and without compliance of provisions of Awards/BPS governing service conditions of bank employees and without compliance of the provisions of the ID Act and principles of natural justice.

That the matter of this illegal termination of services of the applicant was taken up time and again by the applicant and Secretary, PNBSA, UP with the opposite party but because of adamant attitude of the management, the matter could not be resolved, with the result the matter was taken up for conciliation before the ALC(C), Dehradun who is Conciliation Officer under ID Act, 1947 by raising an industrial dispute for an amicable settlement. The ALC(C) also tried his best, held discussions with the parties by seizing the matter in conciliation but the matter could not be settled because of the adamant attitude of the management and the conciliation proceedings ended in failure. The appropriate government therefore has been pleased to refer the following industrial dispute of adjudication by the Hon'ble Tribunal.

That as stated above the applicant was appointed as Sub-staff at the extension counter, PNB of KDB Public School functioning under Branch Office GT Road, Ghaziabad under control and supervision of opposite party No.2 on 08-11-1989 without giving any written order, against a clear vacancy.

That the applicant has been employed as sub-staff for the following period:

Nov.	89	2 days	8-11-89 & 9-11-89
Jan.	90	3 days	22-1-90 to 24-1-90
March	90	8 days	6-3-90 to 9-3-90
April	90	2 days	6-4-90 to 11-4-90
May	90	12 days	17-5-90 to 23-5-90
June	90	9 days	1-6-90 to 5-6-90, 12-6-90, 23-6-90 & 25-6-90
July	90	10 days	19-7-90 to 28-7-90

Aug.	90	9 days	7-8-90, 8-8-90, 16-8-90, 18-8-90, 27-8-90 to 31-8-90.
Sep.	90	14 days	11-9-90 to 17-9-90 20-9-90 to 26-9-90
Oct.	90	27 days	1-10-90 to 4-10-90 9-10-90 to 31-10-90
Nov.	90	24 days	1-11-90 to 24-11-90
Dec.	90	2 days	5-12-90 & 29-12-90
122 days			
Jan.	91	13 days	7-1-91 to 10-1-91, 18-1-91, 24-1-91, 31-1-91.
Feb.	91	13 days	16-2-91 to 28-2-91
March	91	31 days	1-3-91 to 31-3-91
April	91	30 days	1-4-91 to 30-4-91
May	91	31 days	1-5-91 to 31-5-91
June	91	30 days	1-6-91 to 30-6-91
July	91	31 days	1-7-91 to 31-7-91
Aug.	91	31 days	1-8-91 to 31-8-91
Sep.	91	30 days	1-9-91 to 30-9-91
Oct.	91	31 days	1-10-91 to 31-10-91
Nov.	91	30 days	1-11-91 to 30-11-91
Dec.	91	21 days	1-12-91 to 21-12-91
316 days			
Jan.	92	6 days	3-1-92 to 8-1-92
Feb.	92	25 days	5-2-92 to 29-2-92
March	92	31 days	1-3-92 to 31-3-92
April	92	30 days	1-4-92 to 30-4-92
May	92	31 days	1-5-92 to 31-5-92
June	92	30 days	1-6-92 to 30-6-92
July	92	7 days	1-7-92 to 7-7-92
Aug.	92	6 days	26-8-92 to 31-8-92
Sept.	92	12 days	1-9-92 to 12-9-92
TOTAL = 178			

Total: 1989, 1990, 1991 and 1992 = 616 days

That the applicant had worked for more than 240 days in consecutive 12 months' period, while worked for 616 days in the said extension counter of the opposite Party No.2.

That during these tenure, the applicant deponent was asked to work in the bank premises, bring and carrying Bank's books, beg ledgers and registers, accompanying cash in transit, carrying letters for posting in the post office, bring Dak from Post Office, delivering clearing

cheques from the BO: GT Road, Ghaziabad, distribution of dak to the customers, sorting and stitching of vouchers, bundles, recording vouchers in voucher registers, bringing and carrying stationary from Zonal Stationery Cell, Ghaziabad, bringing statements and delivering statements etc. and taking many other jobs from time to time. The applicant was performing normal duties of Peon as well as those belonging to special allowance regularly on these days. Copies of the part of documents are attached herewith clearly supports that the applicant was performing all the above mentioned duties which are part of banking's functions. This has been verified by the Asstt. Labour Commissioner (Central) Dehradun. So he was temporary employee of the Bank and workman as defined under the ID Act.

That besides above, the applicant was performing the duties of subordinate staff cadre due to the vacancy of subordinate staff Shri Mohinder Singh, Peon in whose place the Branch was not having any strength of a peon and the applicant was doing his work of a peon as he was the only subordinate to manage the duties of peon in his place. The Management admits that the applicant was engaged by the Branch level etc.

That the opposite party is a body corporate having the branches throughout the country and among other places there is a branch at GT Road, Ghaziabad, having an extension counter at KDB Public School, Ghaziabad where the applicant workman was deployed at the relevant time while Regional Managers' office is situated at E.K. Road, Meerut. The control and supervision were exercised partly by Chief Manager and partly by Regional Manager, Meerut, in selected fields.

That service conditions of the workmen employees in Punjab National Bank are governed by a set of Awards, and bipartite settlements. As per Punjab National Bank's settlement, a workman, even employed for less than 240 days has to be regularised.

That the provisions of para 20.8 of the Bipartite Settlement, 1966, have been violated by the Bank in case of the applicant. This para provides that after three months during which the Bank shall make arrangement for filling the temporary vacancy permanently but in the instant case, the applicant was allowed to continue with this temporary arrangements for such a long time and the applicant was not allowed to be absorbed against a clear vacancy.

That the Supreme Court held in case of *Dhirendra Chamoli & Others Vs. State Bank of U.P.* 1966 LLJ-134 that casual workmen/worker can not be denied the same salary and conditions of services of regular appointment of class IV employees, when they perform the same duties on regular basis. This decision has again been reconfirmed by the Supreme Court in their Judgement A.I.R. 1991-Section 173 that in view of the directives, principles of State Policy, as confirmed in Article 30 (d) of the Constitution, equal pay for equal work has assured the status of

fundamental right in service jurisprudence, having regard to mandate of society, in Article 14 of the Constitution.

That the applicant was being paid by the opposite party Bank was paying Rs. 25/- per day from different expenditure heads at extension counter KDB Public School, Ghaziabad which is very much less than those prescribed under Awards and Bipartite Settlements whereas the applicant was entitled to pro-rata wages as prescribed under Bipartite Settlement of 1989 i.e. basic pay of Rs. 825/- plus usual allowances like D.A. & CCA etc.

That the Bank has terminated applicants' services in clear violation of Section 25 read with Section 25(B) of the ID Act. According to which the Bank should have given the applicant one months' notice or wages in lieu thereof and retrenchment compensation and notice to the appropriate Govt. But the Bank has not followed this provision, thereby violated the said provision of ID Act and as such termination of the applicant's service is illegal. In this Supreme Court's Judgement in case of *Sundermani Vs. State Bank of India* may kindly be referred to according to which if a workman works for 240 days in 12 calendar months, termination of his services without compliance of Section 25 of the ID Act is illegal.

That the above mentioned matter was raised by the Secretary, Punjab National Bank Staff Association, U.P. Allahabad in the Industrial Relation Machinery Meeting held on 29th April, 1993 with the opposite party No. 11 vide letter dated 25-5-93 but the Opp. Party vide their letter dated 28-5-93 denied the claim which clearly show that the applicant and the Association made every efforts to settle the case with the management without any net result.

In view of the above, it may kindly be seen that termination of the services of the applicant by the management of the Punjab National Bank w.e.f. 12-9-92 is illegal, unfair, malafied, uncalled for, against the principles of natural justice, Awards and Bipartite Settlements. The applicant is a poor man, having large family who are starving because of monetary loss in these hard days.

Further the Bank has denied wages as per provisions of Bipartite Settlements in violation of Bipartite Settlements. In view of the above mentioned facts and circumstances, it is respectfully prayed that the matter may kindly be adjudicated and the Bank be directed to reinstate the applicant with retrospective effect with all consequent benefits like wages and increment etc. for this period.

The Management has filed written statement. In the written statement it has been stated that the dispute has not been duly and properly espoused as envisaged under the provisions of ID Act, 1947 and accordingly no valid dispute can be said to have arisen in the eyes of the law. It is thus submitted that the Hon'ble authority has no jurisdiction to deal the matter.

Shri Narinder Kumar can not be treated as a workman within the meaning of Section-2(s) of the ID Act, 1947

particularly when he was not employed by the bank and no employer-employee relationship has been in existence. As such, there is no ID in terms of Section 2 (K) of ID Act.

Shri Narinder Kumar is not entitled to derive any benefits as he was engaged to do casual work of the bank and as per para 16.9 of the Desai Award exclude the casual employees from the operation of the Desai Award, which lays down as under:

“Persons who were casual employees or who were employed to do casual work are excluded from the operations of Desai Award”. That the case of Shri Narinder Kuamar is also not covered under the definition of retrenchment under Section 2 (oo) (bb) of the ID Act, 1947. Hence, he is not entitled to benefits under Section 25 of the ID Act.

Before giving reply on merits, we would like to give the brief facts of the case for better appreciation of the matter. The service conditions of the workmen staff in the Bank's are governed by Castro Award, Desai Award and I, II, III, IV, V & VIth Bipartite Settlements.

It is submitted that temporary appointments in our Bank stand stopped and no appointment on lump-sum payment on casual basis is permissible in our bank and Incumbents Incharge have been prohibited from appointing any person on casual or lump-sum basis. It is further submitted that the detailed conciliation settlement was signed with the All India PNB Employees Federation in March 1984 (Circulated vide PD Circular No. 761 dated 3-4-84 after which all temporary appointment in subordinate Cadre have been stopped.

That a Memorandum of Settlement was signed on 14-1-91 between the management of PNB and All India PNB Employees Federation before Shri V.K. Shorik, Regional Labour Commissioner, (Central) Govt. of India, Ministry of Labour, regarding appointment of temporary appointments in the subordinate cadre in the bank during the conciliation proceedings and in terms of para 6 (III) of the terms of settlement although who have worked on casual basis and/ or on lump-sum basis were not to be considered to be eligible under the settlement and it was also specifically stated therein that no workmen or his representative or Union would raise any ID or any claim in any shape or from therein after in the regard before any authority or court. Hence, neither the case of Shri Narinder Kumar can be termed as an ID nor Union is entitled to raise the alleged dispute in question.

Shri Narinder Kumar was never appointed by the bank in the subordinate cadre. The contents of para are admitted only to the extent that PNB is a body corporate having branches throughout the country and BO:KDB School, Ghaziabad is under supervision and control of Regional Manager, Meerut. Shri Narinder was never deployed as subordinate cadre since he was never appointed by the bank, as such the question of termination does not arise.

That the matter was raised by the Union in the IRM Metting held on 29-4-93. However, the demand of the Union was declined by the bank in view of the fact that Shri Narinder was never appointed as a temporary workman and as such there is no occasion for considering his case.

Shri Narinder has a S.F. Account No. 1881 with the bank and he used to come to the branch as a customer and off and on he used to do some cleaning work of the branch intermittently and at times used to bring Ice etc. for the branch for which labour charges used to be paid to him. It is strongly denied that he had performed the normal duties of peon as well as those belonging to Special Allowances duties. The service conditions of the employees in the bank are governed by set of Awards/ Settlements.

As per provisions of clause 20.8 of the Bipartite Settlement dated 19-10-66, a temporary workman may also be appointed to fill a permanent vacancy provided that such temporary appointment shall not exceeded a period of three months during which the bank shall make arrangement for filling up the vacancy permanently. As stated earlier, Shri Narinder was never appointed by the bank in Sub-Ordinate Cadre. Hence, the para 20.8 is not applicable in his case. The case law cited as well as Article 39(d) of the Constitution is into relevant in the instant case as Shri Narinder Kumar was never appointed by the bank.

That the provisions of Section 25 of ID Act does not apply in present case since Sh. Narinder was never appointed by the bank, as well as the fact that he never discharged his regular duties relating to banking activities & only did cleaning work etc.

The workman applicant has filed rejoinder. In his rejoinder he has reiterated the averments of his claim statement and has denied most of the paras of the written statement. The management has also denied most of the paras of the claim statement.

Evidence of both the parties has been taken.

Heard arguments from both the sides and perused the papers on the record.

It transpires from perusal of the record that the award in this ID case was given on 09-03-2004. The case has been remanded back for fresh finding by the Hon' ble High Court of Delhi by order dated 31-05-2007.

It was submitted from the side of the workman that he was engaged against a clear vacancy and he performed 240 days work in 12 calendar months preceding the date of his retrenchment. The workman has attached the chart with the claim which shows that he has worked for 120 days in 1989-1990, 316 days in 1991 & 178 days in 1992. The workman has filed affidavit in evidence. In Para -5 of the affidavit the workman has stated as under :

“That the deponent was performing duties of subordinate staff due to the vacancy of Sh. Mohinder Singh, Peon in whose place the branch was not having any strength as he was only subordinate to manage the duty of

a Peon in his place. The management admits that the deponent was engaged by the branch level etc.”

It has been also mentioned in the claim that the workman was performing the duties of subordinate staff cadre due to the vacancy of subordinate staff, Sh. Mohinder Singh, Peon so from the affidavit and the claim statement, it becomes quite obvious that initially the workman was engaged in the leave vacancy of Sh. Mohinder Singh, so it cannot be said that the workman worked against a clear vacancy.

The workman has filed certain documents. The workman has filed photocopy documents B-50 to B - 68. Document B -50 discloses that the workman Sh. Narender Kumar worked for 7 days in the month of June, 1990 and Sh. Mohinder Singh worked for the remaining days of the month. Again in July, 1990 the workman worked for 10 days and for the rest of the days Sh. Mohinder Singh has worked.

Document B-53 discloses that in August, 1990 the workman worked for only 9 days whereas the permanent workman Sh. Mohinder Singh performed duties for rest of the days. Documents B-53 shows that in September, 1990 the workman worked for 14 days and Sh. Mohinder Singh worked for the remaining days. Document B- 54 indicates that the workman worked for 27 days in October & Sh. Mohinder Singh worked for only 3 days. In December, 1990 the workman worked for only 2 days and Sh. Mohinder Singh worked for the remaining days.

These photocopy documents are not admitted to the management but no original document has been filed by the management. These photocopy documents have been denied by the management but these photocopy documents are on the letter head of the management. These photocopy documents bear the signature of Sh. Mohinder Kumar as well the workman Sh. Narender Kumar.

In ID cases it is not possible for the workman to file the original documents as the originals are always in the possession of the management. The management has denied the photocopy documents no doubt but in the pleadings the management has not denied the retrenchment of the workman.

These photocopy documents further establish that the workman has worked for 6 days in January, 1992, 7 days in July, 1992, 6 days in August, 1992 and 12 days in September, 1992. Thus, it cannot be said that the workman worked on a clear vacancy and he performed the duties of a casual Peon in the Bank. There is no explanation as to who worked for the remaining 24 days in January, 1992, 23 days in July, 1992, 24 days in August, 1992 and 18 days in September, 1992. Thus, the case of the management that the workman was engaged against leave vacancy appears to be true.

The workman has in his affidavit specifically mentioned that he was engaged against the vacancy of

Sh. Mohinder Singh. In his claim statement also the workman has stated that he worked in the vacancy of Sh. Mohinder Singh. The documents as well the averments of the affidavit prove that the workman was initially engaged against the vacancy of Sh. Mohinder Singh. It has nowhere come that whether Sh. Mohinder Singh left the service and the post is still vacant. The workman was not engaged against a clear vacancy.

The workman has not filed any application for summoning the original charts. He has filed only photocopies. However, it is admitted to the management that the workman was engaged against leave vacancy of Sh. Mohinder Singh. The stand of the management appears to be true. In 1990 the workman has worked for only 80 to 85 days and in 1992 he has worked for 178 days. It cannot be said that the workman worked all the year against a clear cut vacancy. His working periods in the year 1990 and 1992 establish the fact that the workman was taken on leave vacancy whenever the permanent subordinate staff proceeded on leave. He has worked for the whole month in March, April, May and June, 1992. In the remaining months he has worked for 6 to 12 days. It is also proves the fact that the services of the workman were taken whenever the permanent staff was on leave and it is in this context the award dated 09-03-2004 was given.

The photocopy documents indicate that the workman has worked for 240 days in 12 calendar months preceding the date of his retrenchment. He has not been paid retrenchment compensation under Section 25 F of the ID Act, 1947. As per legal fiction his services shall be deemed continued as he has not been paid retrenchment compensation or one month's pay in lieu of notice. The workman who initially resumes work in leave vacancy and he continues for 240 days in a calendar year or within 12 calendar months preceding the date of his retrenchment he is entitled to one month's pay in lieu of notice and retrenchment compensation. It is admitted to the workman that Sh. Mohinder Singh was subordinate staff and he was initially engaged at the vacant post of Sh. Mohinder Singh in his absence. It has nowhere been mentioned either by the management or by the workman as to what happened to Sh. Mohinder Singh, the subordinate staff.

It is settled law that in case a workman has worked for the whole calendar year and 240 days preceding the date of his termination he is entitled to reinstatement and back wages. The workman can be reinstated only when he has worked against a clear vacancy and the vacancy is still existing. There is no such averment in the claim as to what happened to Sh. Mohinder Singh the subordinate staff in whose vacancy the workman worked periodically.

The workman has failed to prove that he worked against a clear vacancy. He was engaged initially on stop gap arrangement of Sh. Mohinder Singh and in the year 1992 also he worked against leave vacancy of Sh. Mohinder Singh. It is for the workman to prove that the post is still

existing. There is no evidence adduced by the workman that Sh. Mohinder Singh has left the service of the Bank and the post of the Peon on which Sh. Mohinder Singh worked is still vacant.

It has been held in Jaipur Development Authority V.s. Ram Sahay and Ors—2007 - I-LLJ page 433 as under:

“We would, therefore, proceed on the basis that there had been a violation of Sections 25 G and 25 H of the Act, but, the same by itself, in our opinion, would not mean that the Labour Court should have passed an Award of reinstatement with entire back wages. This Court time and again has held that the jurisdiction under Section 11-A must be exercised judiciously. The workman must be employed by a State within the meaning of Article 12 of the Constitution of India, having regard to the doctrine of public employment. It is also required to recruit employees in terms of the provisions of the rules for recruitment framed by it. Respondent had not regularly served appellant. The job was not of perennial nature. There was nothing to show that he, when his services were terminated any person who was junior to him in the same category had been retained.”

In this case the Hon'ble Apex Court has awarded compensation in view of the fact that the post is not existing and the workman did not serve the respondent regularly. In the instant case also the workman worked against the leave vacancy of Sh. Mohinder Singh.

From the above discussion it is quit obvious that no post is existing at present and there can be no order of reinstatement in the light of the judgment of the Hon'ble Apex Court cited above. However, the workman is found entitled to Rs. 50, 000/- (Rs. Fifty Thousand Only) by way of compensation.

It was submitted from the side of the workman that in view of 1966 LLJ 134, AIR 1991 page 173 and in view of Directive Principles of State policy has confirmed in Article 30(d) of the Constitution a casual workman cannot be denied the same salary of Class-IV employees when they performed the same duties on regular basis. There should be equal pay for equal work and it should be treated as a fundamental right in service jurisprudence.

It has been held in (2003) 6 SCC 123 as under :

“The principle of “equal pay for equal work” is not always easy to apply. There are inherent difficulties in comparing and evaluating the work done by different persons in different organizations, or even in the same organization. It is a concept which requires for its applicability complete and wholesale identity between a group of employees claiming identical pay scales and the other group of employees who have already earned such pay scales. The problem about equal pay cannot always be translated into a mathematical formula.”

It is obvious from the judgement that the principles of equal pay for equal work cannot be applied everywhere. A daily wager holds no post. Scale of pay is attached to a

definite post. This workman was not holding any definite post, so he cannot be compared with the regular and permanent staff for equal pay and allowances. It has been further held in (2003) 1 SCC 250 as under:

“Equal pay for equal work—applicability of the principle of, held, depends not only on the nature or volume of work but also on the qualitative difference in reliability and responsibilities as well—Even in case of same functions, responsibilities do make a real and substantial difference—It is for the claimant of parity to substantiate a clear - cut basis of equivalence and a resultant hostile discrimination —In absence of requisite substantiating material, High Court erred in granting the NMR workers/ daily wagers/casual workers parity in pay with the regularly employed staff merely on presumption of equality of the nature of work—However, such workers, held, entitled to payment of prescribed minimum wages.”

It has been held in this case that equal pay for equal work would depend upon not only the nature or the volume of work but also on the qualitative difference as regards reliability and responsibilities though the functions may be the same.

It has been held by Hon'ble Supreme Court in 2007 - I - LLJ that it is not always proper to direct reinstatement with back wages.

It is not the case of the workman that the management has infringed Sections 25 G & H of the ID Act, 1947. No name of the junior employee has been mentioned whose services have been made regular thus, the management has not violated Sections 25 G & H of the ID Act, 1947. The workman was engaged against the vacancy of subordinate staff Sh. Mohinder Singh. There was no clear vacancy. The work is not existing. It cannot be said that the post is still vacant. In case the post exists or the work is still existing reinstatement can be ordered. In the instant case the workman was engaged against the vacancy of subordinate staff, so there is no question of reinstatement.

The workman was initially engaged in the leave vacancy of Sh. Mohinder Singh. He was not engaged against a clear-cut vacancy. He discharged the duties of Sh. Mohinder Singh, the subordinate staff during his leave. The management must be paying entire salary to the subordinate staff Sh. Mohinder Kumar, so the management cannot be compelled to make equal payment to this workman also.

The law cited by the workman for equal pay for equal work is not applicable in the facts and circumstances of the case.

The reference is replied thus:

The action of the management of Punjab National Bank, Meerut in terminating the services of Sh. Narendra Kumar, Sub-Staff posted at Extension Counter, PNB, KDB Public School, Ghaziabad w.e.f. 12-09-1992 is neither absolutely legal nor justified. The workman applicant is

entitled to get Rs.50, 000/- (Rs. Fifty Thousand Only) by way of compensation. The management should make payment of this amount within two months from the date of the publication of the award.

The award is given accordingly.

Date : 31-12-2007

R. N. RAI, Presiding Officer

नई दिल्ली, 8 जनवरी, 2008

का.आ. 226.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार यूनियन बैंक ऑफ इंडिया के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, बंगलूर के पंचाट (संदर्भ संख्या 42/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 07-1-2008 को प्राप्त हुआ था।

[सं. एल-12012/149/2003-आई आर (बी-II)]

राजिन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 8th January, 2008

S.O. 226.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 42/2003) of the Central Government Industrial Tribunal-cum-Labour in Court, Bangalore as shown in the Annexure, in the Industrial Dispute between the management of Union Bank of India and their workmen, which was received by the Central Government on 7-1-2008.

[No. L-12012/149/2003-IR (B-II)]

RAJINDER KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

Dated : 28th December, 2007

PRESENT

SHRIA. R. SIDDIQUI
PRESIDING OFFICER

C. R. NO. 42/2003

I PARTY

Smt. M. Lakshmi,
W/o M. Raju,
No.26, 14th Cross, Magadi Road,
Agrahara, Dasarahalli,
Bangalore-79

II PARTY

The Dy. General Manager,
Union Bank of India,
Regional Office, Chandrakiran,
10A-Kasturba Road,
PB No.5179,
Bangalore

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section 2A of Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide order No. L-12012/149/2003-IR(B-II) dated 15th September 2003 for adjudication on the following schedule:

“Whether the management of Union Bank of India is justified having terminated the services of Mrs. M Lakshmi, Casual Sweeper-cum-Attendant wef. 20-09-2002? If not, what relief she is entitled to?”

2. The case of the first party as made out in the claim statement, in brief, is that being empowered by the second party management bank, all the Senior Managers of the respective branches were used to employ a workman on daily wages for the purpose of cleaning and attending other duties, likewise, her services were engaged by the Sr. Manager of the bank as a Sweeper-Cum-Attendant with effect from February 1998 and she was discharging her duties to the satisfaction of her superiors; that she was not given any appointment order but was being paid daily wages of Rs.25/- to be enhanced from time to time and was drawing wages of Rs 40/- per day. As on September 2002, her services were disengaged without any notice or intimation instead of regularizing her services having regard to her employment right from the year 1998 till September 2002. Therefore, the order removing her from services is illegal and contrary to the provisions of the ID Act and contrary to the rules and regulations of the bank that she raised the dispute with the conciliation officer and the Assistant Labour Commissioner (Central) challenging the order terminating her services but the conciliation proceedings ended in failure. In the meanwhile she filed a petition under Section 10(4)(a) of the ID Act and that came to be withdrawn, later on, with the permission of the court to prosecute the proceedings in the present reference, which reference came to be referred to this tribunal by that time. Therefore, she requested this tribunal to pass an award directing the management to reinstate her into the services of the bank with back wages, continuity of service and with further direction to regularize her services with all consequential benefits.

3. The management by its counter statement, among other things, contended that there has been no relationship of master and servant between the management and the first party and therefore, this court has no jurisdiction to entertain the present proceedings. On facts, the management contended that the first party was just attending the cleaning and sweeping work at times as a part time sweeper on its rolls and her services were being engaged as such on daily wage basis without there being any regular appointment, her name not being sponsored through Employment Exchange as per the rules and regulations of the bank, as the branch manager or any other authority has got no powers under the Rules of the bank to appoint any person except being recruited through

the local Employment Exchange. The management contended that, even otherwise, the first party worked with the BVK Iyengar Road branch of the bank between 24-09-2001 to 23-09-2002 for a period of 193 days, between 24-09-2000 to 23-9-2001 for a period of 66 days and between 24-09-1999 to 23-09-2000 for a period of 27 days and therefore, the management contended that she did not work with the management bank continuously for a period of 240 days nor she worked with the bank from the month of February 1998 as contended by her. The management also contended that the first party's services being engaged on part time basis and not for the whole working day as contended by her. In the result, the management contended that the claim of the first party either for reinstatement or to get her services regularized does not sustain in the eye of law and the reference deserves to be rejected.

4. During the course of trial, the management examined two witnesses as MW1 & 2 and got marked certain circulars at Ex.M1 series and the Xerox copies of the muster rolls for the period from 1-01-2001 to 31-12-2003 as Ex.M2. Both these management witnesses in their examination chief have just reiterated the various contentions taken by the management in its counter statement. The testimony of these two witnesses in nutshell is to the effect that MW1 was working with the aforesaid management branch from July 1998 to August 2001 and during this period i.e. from 24-09-1999, the first party worked with the management bank on temporary basis for the period mentioned above. Both of them have stated that the first party has been engaged on temporary basis and being paid daily wages without there being any regular appointment through Employment Exchange as provided under the Rules and therefore, the disengagement of the services of the first party did not violate any provisions of law much less the provisions of the ID Act. They have also stated that the first party did not work with the management continuously for a period of 240 days and more during the aforesaid 3 years. During the course of cross examination of MW1, it was elicited that the management used to make payment through vouchers and those vouchers were being preserved for a period of 5 years in a routine course. A suggestion made to MW1 that the first party worked continuously from February 1998 till September 2002 was denied by him. During the course of cross examination of MW2, it was elicited that he was not knowing personally on what terms first party was being engaged but denied the suggestion that he was not aware of the terms of the engagement of the first party and in whose place she was engaged. He denied the suggestion that there will be no records for making payment of wages on Sundry payment basis and there will be a movement register or any maintenance book being maintained by the bank. It was elicited that there was no specific order in favour of the first party engaging her for a specific period and he also denied the suggestion that the first party worked

with the management from February 1998 till September 2002.

5. As against this the first party filed her affidavit evidence once again reiterating the various contentions taken by her in her claim statement. In her further examination chief she got marked one document said to be her caste certificate. In her cross examination it was elicited that she was working with the management bank when one Mr. Mallikarjun also was working as a Sweeper as a permanent employee. She admitted the suggestion that her appointment by the management as a part time sweeper was not through the Employment Exchange and that one Mr. Ramaiah was the branch manager before July 1998 when her services were being engaged. She denied the suggestion that she did not work with the bank earlier to July 1998. It was elicited from her that her signature was being obtained on payment vouchers for making the payment and not on the attendance register.

6. Now, therefore, in the light of the evidence brought on record, the learned counsel for the first party while submitting his written arguments orally contended that the first party undisputedly worked with the management atleast from September 1999 till September 2002 and therefore, it is presumed that she worked with the management continuously for a period of 240 days in each calendar year of the said period. He contended that the management after having admitted the fact that the first party was being engaged as a Sweeper -Cum-Attendant on daily wage basis in between the period aforesaid, a heavy burden cast upon the management itself to establish before this tribunal that services of the first party were being taken by the bank on the need basis and not continuously and since the management did not produce the records showing the payment of wages to the first party through vouchers, it is to be presumed that the first party worked with the management continuously much less for a period of 240 days in each calendar year immediately prior to her termination. He further contended that since the management did not comply with the provisions of Section 25F of the ID Act, it becomes a case of illegal retrenchment and in the result termination order is liable to be set aside. He referred to the following three citations in support of his argument.

1. 2005(1)SBR434

2. 2007(1)SCC533

3. 2007(1)SCC250

7. Learned counsel for the management on the other hand argued that undisputedly, the first party has not been appointed on regular basis followed by the rules and regulations of the management and that she rendered the services with the management on daily wage basis that too did not work continuously for a period of 240 days in each calendar year much less for the calendar year preceding the date of her disengagement from services, there arises

no question of violation of the aforesaid provisions of the ID Act. He contended that the fact that the first party worked with the management only for a period of 27 days between September 1999 and September 2000, worked for a period of 66 days between September 2000 and September 2001 and worked for a period of 193 days between September 2001 and September 2002 as deposed by both the management witnesses and found mention in the counter statement of the management, not being challenged or denied on the part of the first party in the cross examination of the said two witnesses must lend support to the contention of the management that she did not work for a period of 240 days or more in a particular calendar year and that the contention made by the first party otherwise is false and incorrect.

8. After having gone through the records I find substance in the arguments advanced for the management. As noted above, except the affidavit filed by the first party repeating the various averments made by her in her claim statement, she produced no single scrap of paper to substantiate her claim that she worked with the management continuously from February 1998 till September 2002. It is now well settled principle of law and as laid down by their Lordship of Supreme Court in a decision reported in 2002 LLR 339 and the decision reported in 2004 FJR 264, the burden to prove that the first party worked with the management continuously for a period of 240 days immediately prior to her termination squarely rested upon her shoulders. Their Lordship of Supreme Court in the aforesaid 2nd decision have also made it abundantly clear that mere non production of muster roll for a particular period by the management is not a sufficient reason to hold that the workman worked for 240 days as claimed. In the instant case as noted above, in fact the management produced the Xerox copy of the muster roll for the period in between 1-1-2001 and 31-12-2003 to substantiate its contention that the first party did not work for a period of 240 days or more immediately prior to her termination. As could be read from the aforesaid muster rolls, the name of the first party did not find place in the muster roll of the bank between the above said periods. Therefore, the only presumption to have given rise to the fact in the light of the aforesaid document is that from 1-1-2001 till September 2002, the first party was not at all in the muster roll of the management bank much less working with the management bank for a period of 240 days or more continuously prior to September 2002. Undisputedly, the services of the first party were being engaged by the management bank on temporary basis and there was no appointment in her favour being made or recruited through the Employment Exchange as provided under the Rules and Regulations of the management bank. Therefore, in order to succeed in the present dispute, the only important fact which was required to be established by the first party was by way of evidence to suggest that she worked with the management for a

period of 240 days in a calendar year, that too, immediately, prior to her alleged termination. As seen above, except the self serving statement of the first party by way of an affidavit, there has been no other oral or documentary evidence produced to substantiate the above said fact. The decisions quoted on behalf of the first party referred to supra would have come to her rescue only when she established the fact that she worked with the management for a period of 240 days immediately prior to her alleged termination. Therefore, the principle laid down in the aforesaid decisions will not be helpful to her case. In the result, it is to be held that first party did not work with the management continuously for a period of 240 days or more immediately prior to her alleged termination and in the result her reference must fail. Hence the following award:

AWARD

The reference is rejected. No costs.

(Dictated to P. A. transcribed by her, corrected and signed by me on 28th December, 2007)

A. R. SIDDIQUI, Presiding Officer

नई दिल्ली, 9 जनवरी, 2008

का.आ. 227.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सी.पी.डब्ल्यू. डी. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नई दिल्ली नं. 2 के पंचाट (संदर्भ संख्या 162/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 9-1-2008 को प्राप्त हुआ था।

[सं. एल-42012/202/2003-आई आर (सीएम-11)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 9th January, 2008

S.O. 227.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 162/2004) of the Central Govt. Industrial Tribunal-cum-Labour Court, No. 2, New Delhi as shown in the Annexure in the Industrial dispute between the management of Central Public Works Department, and their workmen, received by the Central Government on 9-1-2008.

[No. L-42012/202/2003-IR(CM-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE PRESIDING OFFICER :

CENTRAL GOVERNMENT INDUSTRIAL

TRIBUNAL-CUM-LABOUR COURT-II, NEW DELHI

Presiding Officer : R.N. Rai. ID. No. 162/2004

In the Matter of :—

The General Secretary,

All India CPWD Employees' Union,

CPWD Enquiry Office,

Lodhi Colony, New Delhi.

Versus

1. The Executive Engineer (Elect.),
Electrical Division-9, CPWD,
Ast Block-3, Level VI,
R. K. Puram, New Delhi-66.
2. The Superintending Engineer (Elect.),
Co-ordination Circle (Elect.),
CPWD, East Block-I, Level-VII,
R. K. Puram, New Delhi-66.

AWARD

The Ministry of Labour by its letter No. L-42012/202/2003-IR (CM-II) Central Government Dtd. 03-11-2004 has referred the following point for adjudication.

The Point runs as hereunder :—

“Whether the action of the management of CPWD in transferring the workman Sh. Mahabir Singh, Wireman from Division IX (Moti Bagh) to Division-XII (Kitab Mahal) is legal and justified? If not, to what relief is the workman entitled and from which date.”

The workman on 05-12-2007 moved an application for withdrawing this dispute. There remains no dispute in view of the withdrawal.

No dispute award is given.

Date : 03-01-2008

R. N. RAI, Presiding Officer

नई दिल्ली, 9 जनवरी, 2008

का.आ. 228.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.सी.एल. के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, असनसोल के पंचाट (संदर्भ संख्या 23/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 09-01-08 को प्राप्त हुआ था।

[सं. एल-22012/341/2002-आई आर (सीएम-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 9th January, 2008

S.O. 228.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 23/2004) of the Central Govt. Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure in the Industrial dispute between the management of Kalidaspur Project, M/s. Eastern Coalfields Limited and their workmen, received by the Central Government on 09-01-2008.

[No. L-22012/341/2002-IR (CM-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT.
INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT, ASANSOL.

PRESENT : Sri Md. Sarfaraz Khan, Presiding Officer.

REFERENCE NO. 12 OF 1996.

PARTIES : The Agent, Bahula Colliery of M/s. ECL, Burdwan.

Vrs

Joint General Secretary, Colliery Mazdoor Union,
Ukhra, Burdwan.

REPRESENTATIVES :

For the management : Sri.P.K. DAS, Advocate

For the union (Workman) : Sri M. Mukherjee,
Advocate.

Industry: Coal : State : West Bengal.

Dated the 19-09-2007.

AWARD

In exercise of powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Govt. of India through the Ministry of Labour vide its letter No. L-22012/307/95-IR (C-II) dated 22-02-1996 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

“Whether the action of the management of Bahula Colliery under Kenda Area of M/s. ECL in dismissing Sh. Bipin Bihari Ratha, Ex-U.G. Loader from services is legal and justified? If not, what relief the workman concerned is entitled to?”

After having received the Order No. L-22012/307/95-IR (C-II) dated 22-02-1996 of the above mentioned reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a reference case No. 12 of 1996 was registered on 29-2-96 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned. Sri P.K. Das, Advocate and Sri M. Mukherjee, Advocate appeared in the court to represent the management and the union respectively. Both the parties filed their written statement in support of their claims.

From the perusal of the record it transpires that the case was fixed for hearing of the dispute on 19-9-07 but learned lawyer for the union submitted that he has got no instruction either from the union itself or the workman concerned. The union or the workman himself has got no interest to proceed with the case further. The learned lawyer of the union also submitted that he has got no touch with the workman since long time and as such he is ignorant about the whereabouts of the workman concerned. In the prevailing facts and circumstances of the case it is not proper and advisable to keep the record pending any more as the same is old one and no useful purpose is to be served. As such it is hereby

ORDERED

that let a "No Dispute Award" be and the same is passed. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi for information and needful. The reference is accordingly disposed of.

M. D. SARFARAZ KHAN, Presiding Officer

नई दिल्ली, 9 जनवरी, 2008

का.आ. 229.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सी.पी.डब्ल्यू. डी. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नई दिल्ली नं. 2 के पंचाट (संदर्भ संख्या 164/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 09-01-2008 को प्राप्त हुआ था।

[सं. एल-42012/189/2003-आईआर(सीएम-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 9th January, 2008

S.O. 229.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 164/2004) of the Central Govt. Industrial Tribunal-cum-Labour Court, No. 2, New Delhi as shown in the Annexure in the Industrial dispute between the management of Central Public Works Department, and their workmen, received by the Central Government on 09-01-2008.

[No. L-42012/189/2003-IR (CM-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

**BEFORE THE PRESIDING OFFICER:
CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT-II, NEW DELHI**

Presiding Officer : R.N. Rai. ID. No. 164/2004

In the Matter of :—

Shri Mast Ram

C/o. All India CPWD (MRM) Karamchari Sangathan
(Regd.), 4823, Balbir Nagar Extension, Gali No. 13,
Shahdara,
Delhi-110032

Versus

The Executive Engineer,
ITPO Elect. Division, CPWD,
IP Bhawan, New Delhi

AWARD

The Ministry of Labour by its letter No. L-42012/189/2003-IR (CM-II) Central Government Dt. 3-11-2004 has referred the following point for adjudication.

The Point runs as hereunder :—

"Whether the demand of All India CPWD (MRM) Karamchari Sangathan for reinstatement and regularization of Shri Mast Ram, Khalasi in the organization of CPWD is legal and justified? If yes, to what relief the workman is entitled and from what date."

The workman applicant has filed claim statement. In the claim statement it has been stated that Sh. Mast Ram S/o. Sh. Ram Nihar had been working as Khalasi on contract labour w.e.f. 17th October, 2001 as contract labour at the premises of the above said management for the work of maintenance and electrical at CGHS Dispensary, Lakshmi Nagar, New Delhi through contractor, M/s. Mohit Electrical Engineers, B-61, Pandav Nagar, Delhi-110092.

That the services of the workman were terminated w.e.f. 21st June, 2002 in complete violation of the provisions of Sections 25 F, G & H of the ID Act, 1947. Also the contractor did not deposit any CPF amount with the PF Commissioner and also no permission was sought from the appropriate authority for hiring contract labour by the contractor.

That the workman had been in continuous employment with the respondent/management ever since his initial appointment. That although the respondent has changed its contractors several times since then the services of the workman have been continuous.

That till date no seniority list has been maintained by the respondent or even for that matter by the contractor.

That the workman has been performing all the duties of Khalasi as have been enumerated in the CPWD work manual. The duties performed by the workman are essentially the same as are being performed by the regular employees of the CPWD.

That the work done by the workman is of an essential and permanent nature and the establishment of the

management cannot operate effectively or at all without the services of a wireman. The work of the workman is directly connected with day to day functioning of the electrical division in which the workman is employed and are essential for its existence and functioning.

That though on paper it is being depicted as if the workman herein is the employee of the contractor but in reality the contractor is a mere sham entity designed to deny the status of permanency to the workman and other similarly situated contract labour. The contract between the contractor and the management is not genuine but just a smoke screen to defeat the provisions of the various beneficial legislations designed to protect the interest of workers.

That the day to day working, instructions to do any task was given by the engineers of the CPWD as to what task is to be done and how it is to be done. At no point of time during his employment was the work of the workman ever supervised by the contractor or any of his employees but at all points of time the workman was under the direct supervision and control of the CPWD.

That the employees of the management even enjoyed disciplinary authority over the workman and all the contractual labour employed under it. The sham contract between the contractor and the management is essentially for supply of labour and the actual maintenance work is supervised by the engineers of the CPWD.

That the very fact that the workman during the course of his employment since October, 2001 has been continuously working under the same management but under different contractors shows that there is an actual employer-employee relationship between the CPWD and the workman herein and the contractor is a mere sham entity so that the workman is denied the status and privileges of regular employment and remain as contractual labour for his entire life.

That the management has been continuing the workman as contractual labour since years though vacant sanctioned posts are available with it. But the management instead of employing the workman herein regular employment against those vacancies has been surrendering the same.

That therefore, it is abundantly clear that the workman had been directly working under the CPWD continuously for number of years under its direct supervision and control.

That the work/duties discharged by the workman is sufficient to employ regular workman and in fact in the CPWD itself as well as other similar establishments regular employees are appointed to work.

That by its actions the management is also guilty of commission of unfair labour practice as enumerated in Schedule 5 of the ID Act, 1947.

That the workman is unemployed and he and his family members are at the brink of starvation due to the illegal and malafide termination of his services by the management.

That the claim of the workman is being espoused by All India CPWD (MRM) Karamchari Sangathan (Regd.), 4823, Balbir Nagar Extension, Gali No. 13, Shahadra, Delhi-110 032 through its office bearers.

It transpires from perusal of the order sheet that opportunity for filing written statement by the management was closed on 19-9-2007 and the workman was directed to file affidavit. The workman did not file affidavit on four dates. The opportunity of filing affidavit was also closed.

The case of the workman is that he was employed as contract labour w.e.f. 17-10-2001 in the premises of the management for the work of maintenance and electrical at CGHS Dispensary, Lakshmi Nagar. His services were terminated on 21st June, 2002.

The workman has not filed affidavit in support of his case and he has worked only from 17th October, 2001 to 20th June, 2002 as contract labour. The workman has no case of reinstatement or regularization as he has not even completed 240 days work even as a contract labour.

The reference is replied thus :—

The demand of All India CPWD (MRM) Karamchari Sangathan for reinstatement and regularization of Shri Mast Ram, Khalasi in the organization of CPWD is neither legal nor justified. The workman applicant is not entitled to get any relief as prayed for.

The award is given accordingly.

Date : 28-12-2007

R. N. RAI, Presiding Officer

नई दिल्ली, 9 जनवरी, 2008

का.आ. 230.-औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एग्रीकल्चर सर्वे ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नई दिल्ली नं. 2, के पंचाट (संदर्भ संख्या 52/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 09-01-2008 को प्राप्त हुआ था।

[सं. एल-42012/172/2003-आई आर (सीएम-II)]

अजय कुमार गौड़, डैस्क अधिकारी

203 GI/08-12

New Delhi, the 9th January, 2008

S.O. 230.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award Ref. No.52/2004 of the Central Government Industrial Tribunal-cum-Labour Court No. 2, New Delhi as shown in the Annexure, in the Industrial Dispute between the management of Archeological Survey of India and their workmen, received by the Central Government on 09-01-2008

[No. L-42012/172/2003-IR (CM-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE PRESIDING OFFICER CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM- LABOUR COURT-II, NEW DELHI

I. D. No. 52/2004

Presiding Officer : R.N. Rai

In the matter of :—

The Workmen,
As represented by
Akhil Bhartiya Puratatav Sarvekshan Kamgar Union,
C/o Room No. 95, Barrack No. 1/10,
Jamnagar House, Sahajahan Road,
New Delhi-110011.

Versus

The Management of
Director General,
Archaeological Survey of India,
Janpath, New Delhi.

AWARD

The Ministry of Labour by its letter No. L-42012/172/2003-IR (CM-II) Central Government dt. 23-02-2004 has referred the following point for adjudication :

The point runs as hereunder :—

“Whether the demand of the Akhil Bhartiya Puratatav Sarvekshan Kamgar Union, New Delhi for giving the pay scale of Sr. Mali of CPWD to Sr. Garden Attendants (now designated as Gardner Gr. III) working in Archaeological Survey of India w.e.f. 01-01-1973 is legal and justified? If yes, to what relief the workmen are entitled to and from which date?”

2. The union has filed claim statement. In the claim statement it has been stated that the Archaeological Survey of India (ASI) is performing the duties of maintenance of buildings, lawns, monuments, gardens, museums etc.

That the Sr. Garden Attendants are performing the duties of Mali (now designated as Gardner Gr. III) under the Chief Horticulturist of the management and they were getting the wages in the old pay scale of Rs.210-290 w.e.f. 01-01-1973 and after the revision of pay scale w.e.f. 01-01-1986 in the pay scale of Rs.800-1150 and w.e.f. 01-01-1996 in the pay scale of Rs. 2650-4000 and similarly the Sr. Mali of

CPWD i.e. semi-skilled were also getting the same pay scale as granted and revised from time to time by the Pay Commission.

That proper pay scales were not given by the Central Government to the CPWD workers and an agreement was reached between the management of CPWD and its workmen through CPWD Mazdoor Union for recategorization/reclassification of the work charged and regular classified staff of CPWD as the same duties and responsibilities were performed by them. That the arbitrators had re-classified and recategorised the work of Sr. Mali as semi-skilled workmen to the skilled workmen and similarly the Pay Commission had wrongly classified the status of Sr. Garden Assistant (now designated as Gardner Gr. III) working in the establishment of ASI in the said nomenclature.

That the workmen of ASI in the category of Sr. Garden Attendant performing the duties of Sr. Mali and have been performing more arduous duties as their counterparts in the CPWD are performing.

That both the categories of workmen as “Industrial Workmen of the Central Government and both were given pay scale as per recommendations of Central Pay Commission for Central Government Employees from time to time.

That the CPWD, Government of India have accepted the re-classification/re-categorization of Mali as per Arbitration Award 1988 and the same was implemented by them.

That after the implementation of Arbitration Award the pay scale of Sr. Mali were revised from 01-01-1973 on notional basis and arrears of the wages were paid w.e.f. 01-04-1981 in the old pay scale of Rs. 260-400 subsequently revised to Rs. 950-1500 and further revised after the acceptance of recommendation of Fifth Pay Commission in the pay scale of Rs.3050-4590/-.

That the workmen in the category of Sr. Garden Attendant performing the duty of Sr. Mali in the establishment of ASI were discriminated in the payment of wages in the pay scale of Rs.260-400 w.e.f. 01-01-1973, Rs. 950-1500/- w.e.f. 01-01-1986 and also denied the new pay scale of Rs. 3050-4590.

That as per Industry cum Region, the workmen of ASI are also entitled to the wages in the pay scale of Rs. 260-400 w.e.f. 01-01-1973 and the arrears in the said pay scale w.e.f. 01-04-1981 onwards.

That the Hon'ble Supreme Court in its judgment in the matter of Randhir Singh Vs. UOI have recognized the same pay scale in the same category working in different departments of the Government so the workmen of ASI are also entitled to the same pay scale as their counterparts have been getting in the CPWD and both the departments are functioning directly under the control of Central Government.

That as per the recent judgment of Hon'ble Supreme Court in the matter of MCD Vs. Ganesh Razak and others held that the workmen can demand equal pay for equal work and the dispute can be adjudicated upon under Section 10(1) of the ID Act, 1947.

That the Sr. Garden Attendant are performing the duties like trimming of plants, cutting hedge and cultivating seeds and also correcting garden operation such manuring and erasing and other garden duties equivalent to the skilled workmen and they were getting the pay scale of Third Pay Commission in the old scale of Rs.210-260 revised in the pay scale of Rs.210-290, Rs.800-1100 and Rs. 2650-4000 as per the recommendation of different Pay Commissions.

That the department of CPWD as well as ASI both are under the control of Central Government so the workmen cannot be discriminated by the management after the implementation of the Arbitration Award on 20-12-1993.

That both type of workmen i.e. Sr. Mali in CPWD and Sr. Garden Attendant in ASI have been performing same and similar duty, but the Sr. Garden Attendant of ASI were discriminated by the management in the payment of equal pay for equal work.

That the Sr. Garden Attendant and Sr. Mali of CPWD have been getting the pay scale as recommended by the Central Government Pay Commission for Central Government Employees from time to time and after acceptance of the Arbitration Award by the Central Government in CPWD the denial of same facility by the management of ASI is violative of principles of equal pay for equal work in the employment of same government i.e. Central Government.

That the arbitrators while dealing with the recategorization and re-classification of Mali in CPWD recommended their status from un-skilled to semi-skilled to be revised and the Government of India have also accepted the classification after losing their cases before the Hon'ble High Court of Delhi as well as in the Hon'ble Supreme Court so the workmen of ASI are also entitled to the same classification/pay scales of CPWD as they are performing more arduous duties as their counterparts in CPWD/PWD are performing.

That Sr. Mali of CPWD/PWD and Sr. Garden Attendant of ASI are doing the work of Sr. Mali in the same locality but the Sr. Garden Attendants of ASI are not getting skilled pay scales, benefits and status after the implementation of Arbitration Award dated 20-12-1993 with retrospective date.

That Mali of CPWD was classified as work charged staff and getting all the facilities of government employees including pension etc. and Sr. Mali of CPWD are also maintaining the office lawns of the residences of the officers of ASI residing in Government Colonies and getting pay

scales as granted by the Arbitrators in Arbitration Award but the Garden Attendants in ASI performing the duties of Mali are not getting the same benefits including pay etc. as per Arbitration Award of CPWD.

That there is no qualification prescribed for engagement of Sr. Mali on regular basis in CPWD/PWD and the age of initial employment has been kept as 18 to 30 years and in the case of SC / ST categories, it has been relaxed up to 35 years. Similarly, in the ASI no qualification etc. has been prescribed for the employment of Sr. Garden Attendant being promotional post.

That the mode of employment, age of employment, retirement and duty hours are same and similar in case of Sr. Mali of CPWD / PWD and Sr. Garden Attendant of ASI, so the workmen of ASI cannot be discriminated and two sets of employees in CPWD and in ASI doing the work of Mali in the designation of Sr. Mali and Sr. Garden Attendant are similarly situated so there cannot be any disparity in respect of pay scales etc.

That after implementation of Arbitration Award vide OM dated 20.12.1993 and after knowing the order of the Government, the workmen of ASI individually met the management several times to request for implement the order of CPWD in respect of Sr. Garden Attendants in ASI and the Union of the workmen i.e. Akhil Bhartiya Puratav Sarvekshan Kamgar Union had submitted charter of demands on 26-06-1995, 28-11-1995 including implementation of Arbitration Award. Apart from this the workmen also submitted charter of demands dated 05-06-1995, 26-06-1996, 04-07-1995, 27-07-1995, 28-07-1995, 01-11-1995 & 20-11-1995 respectively and also demonstrated for the implementation of the said demands on 25-07-1995, but the management has not taken any interest to implement the same as submitted by the union from time to time. Thereafter, also, the representatives of the union met several officers from time to time but their efforts were frustrated by the indifferent and anti-workmen attitude of the management of ASI.

That the Sr. Garden Attendants of ASI are legally entitled to the same facility working in the same employment i.e. the Central Government on the analogy of equal pay for equal work.

That the workmen in the category of Sr. Garden Attendant performing the duties of Sr. Mali are entitled to get pay scale of Rs. 260-400 w.e.f. 01-01-1973 on notional basis and the arrears of wages w.e.f. 01-04-1981, in the pay scale of Rs.950-1500 and after the implementation of recommendations of Fifth Pay Commission in the pay scale of Rs.3050-4590/- at par with their counterparts working in CPWD/PWD with the designation of Gardeners, Gr. III.

That the Fifth Pay Commission in its report (Vol. II) have also dealt the said arbitration award of CPWD. In respect of Mali/Garden Attendant/Sr. Garden Attendant,

Jr. Foreman, Asstt. Foreman and Foreman etc. and in the CPWD the Sr. Malis were granted as per arbitration award in the pay scale of Rs. 260-400 w.e.f. 01-01-1973 revised w.e.f. 01-01-1986 in the pay scale of Rs. 950-1500/- and after the implementation of Fifth Pay Commission their pay scales were also revised in the pay scale of Rs. 3050-4590/-, but the ASI denied the said pay scales and also refused to classify as Gardner Grade III in the pay scale of Rs. 260-400 (prerevised i.e. w.e.f. 01-01-1973), revised to Rs. 950-1500/- and further revised after implementation of Fifth Pay Commission w.e.f. 01-01-1996 in the pay scale of Rs. 3050-4590/-.

That non-acceptance of demand of Akhil Bhartiya Puratattav Sarvekshan Kamgar Union (now designated as Gardner Gr. III) and now merger of post of Sr. Garden Attendant, Jr. Foreman, Asstt. Foreman and Foreman as per the recommendations of the Fourth Pay Commission on the basis of Arbitration Award of CPWD is also illegal and unjustified.

That the managing committee of the union has unanimously resolved to grant espousal to the union to raise industrial dispute for grant of pay scale as per arbitration award related to the pay scales of Sr. Mali of CPWD to the Sr. Garden Attendants working in Archaeological Survey of India w.e.f. 01-01-1973 onwards and do all such things and also granted authority to President of the Union to file and verify the statement of claim and do all such things which are incidental to such doing and acting on behalf of the union.

In view of the above this Hon'ble Tribunal may kindly award the pay scale of Sr. Mali of CPWD to Sr. Garden Attendant (now designated as Gardner Gr. III) working in Archaeological Survey of India w.e.f. 01-01-1973 on notional basis and the arrears of wages may be allowed w.e.f. 01-04-1981 in the pay scale of Rs. 260-400, revised w.e.f. 01-01-1986 in the pay scale of Rs. 950-1500 and further revised in the pay scale of Rs. 3050-4590/- w.e.f. 01-01-1996 along with all consequential benefits.

Award any other relief as this Hon'ble Tribunal may think fit and proper in this dispute.

The Management has filed Written Statement. In the written statement it has been stated that the statement of claim is not maintainable as the Management (A.S.I.) is neither an 'Industry' nor the same is covered by the Industrial Disputes Act, as the Hon'ble C.A.T. Cuttack in the M.A. No. 266/96 arising out of O.A. No. 1192/96 held on 16-12-1996 that the A.S.I. and a Government Department relating to the sovereign function of Government can not be termed as 'Industry' (copy enclosed herewith as Annexure-1 for ready reference). Besides, in (1977) 4 Supreme Court Cases 257, P.R.L. Vs. K.C. Sharma, Hon'ble Supreme Court held that P.R.L. is not an Industry.

That A.S.I. is maintaining the heritage property under "Ancient Monuments and Archaeological Sites and

Remains Act, 1958 and" Antiquities and Art Treasures Act, 1972. Therefore, the activities of A.S.I. does not come under the preview of Industry for the purpose of I.D. Act, 1947. The Sr. Mali comes under the work charge staff of C.P.W.D. and performing the duties as maintenance of public parks and the duties of maintenance of garden/lawns, nurseries, weeding digging, hoeing, watering and other related works of gardens in and around the national protected monuments. They have been getting the scales of Rs. 200-250 w.e.f. 01-01-1973 as per third C.P.C., Rs. 775-1025 from 01-01-1986 as per IVth C.P.C. and Vth C.P.C. have already upgraded the Pay Scale of Sr. G.A. from Rs. 775-1025 to Rs. 800-1150 before revision of Pay Scale and it has been revised and merged in the Pay Scale of Jr. Foreman. Now they are working in the upgraded Pay Scale of Rs. 2650-4000. 87 Posts of Sr. G.A. in A.S.I. have been upgraded in the Pay Scale of Jr. Foreman and redesignated as Jr. Foreman (copy enclosed). There is no post of Sr. G.A. at present in the A.S.I. Therefore, the service conditions of Sr. Mali working in the CPWD under work charge category cannot be compared with the service conditions of Jr. Foreman (H) permanent staff of A.S.I.

That the agreement executed between the management of CPWD and their workmen is related to the work charge staff of CPWD. This agreement is not applicable to the regular staff of A.S.I., because the A.S.I. is governed by the Ministry of Tourism and Culture and the CPWD is governed by the Ministry of Urban Development.

That the agreement between the management of CPWD and its workmen was for the reclassification and re-categorization of the staff of CPWD. The A.S.I. is not concerned with the agreement, hence it is not applicable to the A.S.I. However, the pay scale of Sr. G.A. has been upgraded and merged with the higher pay scale of Jr. Foreman by the 5th C.P.C. i.e. 2650-4000, now all the Sr. G.A. are working in the upgraded Pay Scale of Jr. Foreman.

That the duties of Sr. G.A. (now Jr. Foreman) in A.S.I. are as per requirement of monuments which comes under the heritage properties and whereas the Sr. Mali of CPWD are maintaining only the public parks which cannot be compared at par with the duties of Jr. Foreman of A.S.I.

That the Horticulture Branch of A.S.I. is not profit earning department as the Hon'ble C.A.T. Cuttack in the M.A. No. 266/96 arising out of O.A. No. 1192/96 held sovereign function on Government cannot be termed as industry.

Besides, in (1947) 4 the Hon'ble Supreme Court Cases 257 P.R.L. Vs. K.C. Sharma, the Hon'ble Supreme Court held that the P.R.L. is not an industry.

Similarly, the Hon'ble Court C.G.I.T., Jaipur in the Dispute No. CGIT/B-18/97 Bhagirath Sharma Vs. S.A., A.S.I., Jaipur has also held that the A.S.I. does not cover in the I.D. Act, 1947. In view of the abovesaid court orders,

the A.S.I. does not come in the purview/category of industry. Therefore, worker working in the A.S.I. cannot be termed as Industrial workers.

That the Arbitration Award 1988 is not applicable to the establishment of A.S.I. as the staff working in A.S.I. is governed by the Ministry of Tourism and Culture and staff working in CPWD are governed by the Ministry of Urban Development.

That the CPWD workers are under work charge staff and the Jr. Foreman in A.S.I. are regular staff so the order in case of Randhir Singh Vs. Union of India is not applicable to the regular staff of A.S.I. which is not covered under the purview of I.D. Act, 1947.

That the M.C.D. is the local body governed by separate legislation and the A.S.I. is governed by Ministry of Tourism and Culture. Therefore, the service conditions of local bodies cannot be compared with the Govt. of India. That Pay Scale of Sr. G.A. has already been upgraded in the higher Pay Scale of Jr. Foreman by the 5th CPC before the effect of revised Pay Scale. In view of such upgradation, there is a benefit to the Sr. G.A. now working as Jr. Foreman (H). That the CPWD worker are working under work charge category and the Jr. Foreman in A.S.I. are in regular establishment. Therefore, there is no comparison in this regard and Arbitration Award is not applicable to the staff of A.S.I.

That the Sr. Mali in CPWD is a work charge staff but the Sr. G.A. (now Jr. Foreman) is a regular staff. The CPWD has been maintaining the public parks and A.S.I. has been maintaining heritage. Therefore, both cannot be compared.

That the arbitration award has been issued in favour of workmen of CPWD and not for A.S.I. The CPWD is an industrial department and wherein the A.S.I. is a sovereign department though both are Central Government Departments. Under such circumstances, there was no occasion for violative of principle of equal pay for equal work by the management of A.S.I.

That the Sr. Mali working under work charge category in CPWD are not counterpart of the A.S.I. because both are working under separate Ministries and Arbitration Award is not applicable on the regular staff i.e. Jr. Foreman working in the A.S.I., the Pay Scale has already been upgraded by the 5th CPC (Sr. G.A. to the Jr. Foreman in the higher scale). That the Sr. Mali of CPWD are working in the residential areas as well as public parks and the Jr. Foreman in ASI are working in the Cultural heritage monuments to improve the environment. The service condition of work charge staff in CPWD cannot be compared with regular Jr. Foreman (H) of A.S.I.

That as per the recruitment rules qualification required for the post of Jr. Foreman is 8th standard pass but the Sr. Malis are working as illiterate so there is no comparison of both category of posts in separate Ministries. So the statement of claim is not true. Initially the qualification for

appointment to the post of G.A. in A.S.I. is minimum 8th standard pass. There is no comparison.

That the A.S.I. has recognized union i.e. All India Archaeological Service Association for welfare of staff of A.S.I. The A.B.P.S.K. Union is not a recognized union by A.S.I. The A.I.A.S.A. union has been working regularly at present. Hence the statement of claim is baseless. That the Sr. G.A. (now Jr. Foreman) is a regular staff of A.S.I. working in the Ministry of Tourism and Culture and Sr. Mali is working under work charge cartography in the separate establishment under the Ministry of Urban Development. So the service conditions of both Ministries are different which cannot be compared with each other. For example the divisional head of Horticulture Branch in CPWD are working in the Pay Scale of Rs. 10000—15200 and the Divisional head of A.S.I. are working in the Pay Scale of 8000—13500 which are not also compared.

In another example the Pay Scale of head of the horticulture branch of CPWD has been upgraded from the Pay Scale of Rs. 13000—16500 but the Pay Scale of head of the Horticulture Branch in A.S.I. has not been upgraded on the basis of comparison of ground of upgradation of head of Horticulture Branch of CPWD.

That while giving the recommendation regarding pay structure to the staff of CPWD, the 5th CPC has taken into the account the implementation of the arbitration award but no reference of arbitration award has been given by the 5th CPC while recommending the pay structure to the staff of A.S.I.

That the ABPS Kamgar Union is not recognized union by A.S.I. There is existing of AIASA Kamgar Union is not a recognized union by A.S.I. There is existing of AIASA union which is a recognized union working for the welfare of the workers in A.S.I. Even than the 5th CPC has already been upgraded the post of Sr. G.A. to the higher Pay Scale of Jr. Foreman. Similarly the post of Asstt. Foreman has also been upgraded in the scale of Foreman (H). Now all Sr. G.A. are working as Jr. Foreman (H) and Asstt. Foreman are working as Foreman (H) has already been getting the ACP benefits in the Pay Scale of Rs. 3050-4590 to Rs. 4500-7000 as per recommendation of 5th CPC.

The union has filed rejoinder. In the rejoinder the union has reiterated the averments of his claim statement and has denied most of the paras of the written statement. The management has also denied most of the paras of the claim statement.

Evidence of both the parties has been taken.

Heard argument from both the sides and perused the papers on the record.

From perusal of the records it transpires that three issues arised for disposal of the dispute:

1. Whether the management of A.S.I. is an Industry?

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2. Whether there is proper espousal of the case?
3. Whether the Sr. Garden Attendants designated as Gardener Gr.-III are entitled to get the pay scale of Sr. Mali of CPWD?

ISSUE No. 1

It was submitted from the side of the management that the ASI is not an Industry. It carries on sovereign function. The ASI is not covered under the industrial dispute acts. It is government department related to the sovereign function of the government and it cannot be termed as Industry. It is maintaining heritage property under the Ancient Monuments and Archaeological Sites and Remains Act, 1958 and Antiquity and Treasure Act, 1972. The activities do not come under the purview of Industry for the purpose of ID Act, 1947.

It was submitted from the side of the workmen that the judgment of the Constitution Bench (1978) 3 SCR 207 still holds the field so far as definition of 2 J is concerned. The Hon'ble Apex Court in that judgment has laid down triple tests and in the light of these tests it is to be ascertained whether the respondent/management is an Industry or not.

It has been held in Bangalore Water Supply that in an Industry there should be systematic activity and it should be organized by cooperation between the employer and the employees and it should be for production and/or distribution of goods and service calculated to satisfy human wants and wishes. It has been held that absence of profit motive or gainful objective is irrelevant. The true focus is functional and the decisive test is the nature of the activity with special emphasis on the employer and employee relations. If an organization is not carrying on trade and business it is not beyond the purview of Industrial activities.

It has been held in this case that Section 2(j) of the Industrial Disputes Act, 1947 which defines industry contains words of wide import as wide as the legislature could have possibly made them. The problem of what limitations could and should be reasonably read in interpreting the wide words used in Section 2(j) is far too policy oriented to be satisfactorily settled by judicial decisions. The Parliament must step in and legislate in a manner which will leave no doubt as to its intention. That alone can afford a satisfactory solution to the question which has agitated and perplexed the judiciary at all levels.

In this judgment the Hon'ble Apex Court has laid down triple test to ascertain whether a particular unit or undertaking is an industry or not. It has been held in this case that where (i) systematic activity, (ii) organized by cooperation between employer and employee (the direct and substantial element is chimerical) (iii) for the production and/or distribution of goods and services calculated to satisfy human wants and wishes (not spiritual or religious,

but inclusive of material things or services geared to celestial bliss e.g. making on a large scale prasad or food).

(b) Absence of profit motive or gainful objective is irrelevant be the venture in the public, joint, private or other sector.

(c). The true focus is functional and the decisive test is the nature of the activity with special emphasis on the employer employee relations.

(d) If the organization is a trade or business it does not cease to be one because of philanthropy animating the undertaking.

Although Section 2 (j) uses words of the widest amplitude in its two limbs, their meaning cannot be magnified to over each itself.

The Hon'ble Apex Court has laid down further the dominant nature test. It has been held as follows:

"Where a complex of activities some of which qualify for exemption, others not involves employees on the total undertaking some of whom are not workmen as in the University of Delhi case or some departments are not productive of goods and services if isolated, even then the predominant nature of the services and the integrated nature of the departments as explained in the Corporation of Nagpur will be the true test. The whole undertaking will be industry although those who are not workmen by definition may not benefit by the status.

Notwithstanding the previous clauses, sovereign functions, strictly understood (alone), qualify for exemption not the welfare activities of economic adventures undertaken by government or statutory bodies.

Even in departments discharging sovereign functions if there are units which are industries and they are substantially severable then they can be considered to come within Section 2(j).

Admittedly the ASI is maintaining heritage property. It is carrying on systematic human activities. There is employer-employee relationship between the management and the workmen. The employees are rendering service to satisfy human wants. It is of course true that the ASI is not carrying on gainful objective. The nature of the activity and the relation of employer-employee is the decisive test to ascertain whether the undertaking is an Industry or not. The ASI is not carrying any trade or business but trade or business is not an essential element for holding an undertaking to be an Industry. The constitution bench has held that even Arsenal Department of the government is an Industry on the analogy that in case such functions are discharged by a private undertaking it would be an Industry.

From perusal of the records it becomes quite evident that the respondent/ management is engaged in systematic human activities. The respondents are not discharging

duties for gains but gainful objective is irrelevant in deciding whether an undertaking is an industry or not. In case the activities of the respondents are considered in the crucible of the triple tests, respondent is obviously and definitely an industry.

My attention was also drawn to (1997) 4 SCC 257. It has been held by the Hon'ble Supreme Court that Physical Research Laboratory is not an industry because it is purely a research organization discharging governmental function and a domestic enterprise than a commercial enterprise.

This case law is regarding research institute. The ASI is not a research institute. It is engaged in the function of maintenance of heritage property under the Ancient Monuments and Archaeological Sites. It carries on systematic activities. There, is employer-employee relation between the management and its employees. This case law is not applicable in view of the Constitution Bench Judgement referred to above.

This issue is decided accordingly.

ISSUE No. 2.

It was submitted from the side of the management that the dispute has not been espoused by the recognized union. The ABPS union is not a recognized union of the ASI. The workmen have examined Sh. Ram Vilash Rai, Garden Attendant working in the ASI and he has stated in his cross examination that about 300 Malis working in Delhi under the ASI are the members of the ABPS Union including him. The AISA no doubt is the recognized union of the management. MW 1 has admitted that ABPS Union is a registered under the Trade Union Act, 1926. It is not necessary that a union should be recognized by the management for espousing the cause of the workmen. It is sufficient if it is registered and a fair number of workmen are its members.

It has been held in (1961) 2 SCR 1 as under :

"That for a dispute to constitute an industrial dispute it is not a requisite condition that it should be sponsored by a recognized union or that all the workmen of an industrial establishment should be parties to it. A settlement arrived at in course of conciliation proceedings falls within S.18(3)(a) and (d) of the Industrial Disputes Act and as such binds all the workmen though an unregistered union or only some of workmen may have raised the dispute."

From perusal of the judgement of the Hon'ble Supreme Court it becomes quite obvious that an industrial dispute need not be sponsored only by a recognized union and it is also not necessary that all the workmen should be the members of this union. It has been further held in this case that a dispute becomes an industrial dispute even where it is sponsored by union which is not registered.

It has been further held in AIR 1970 SC 737 that an outside union may sponsor the case if there is sufficient

representation. It may be the union of minority of the workmen and it is not necessary that it should be a recognized union. Any outside union having sufficient representation of the employees of an industry may espouse the case of the workmen.

There appears to be no merit in the contention of the management in view of (1961) 2 SCR 1 & AIR 1970 SC 737. The dispute has been properly espoused by ABPS Union. This issue is decided accordingly.

ISSUE No. 3.

It was submitted from the side of the workmen that Sr. Mali of CPWD and Sr. Garden Attendant designated as Gardener Grade-III are working under the Central Government and they have been given recommendations of Central Pay Commission for Central Government employees from time to time.

It was further submitted that the workmen have been given revised salary in view of implementation of Arbitration Award and their salary has been revised after acceptance of the recommendation of the 5th Pay Commission in Pay Scale of Rs. 3050-4590. Sr. Garden Attendant are performing the duties of Sr. Malis in the establishment of ASI but there has been discrimination in the payment of wages in regard to the wages of Sr. Malis of CPWD.

It was further submitted that the workmen of ASI designated as. Gardner Grade-III are also entitled to get the Pay Scales of Sr. Malis of the CPWD as both are discharging the same duties.

It was further submitted that the Sr. Garden Attendant now designated as Gardner Grade - III are performing the work like trimming of plants, cutting hedges and cultivating seeds and also correcting garden operation such manuring and erasing. The department of CPWD as well as ASI are under the control of Central Government so there should be uniform pay scale for the Sr. Malis of CPWD and of the Sr. Garden Attendant designated as Gardner Grade-III of ASI as both are discharging the same and similar duties.

It was further submitted that Sr. Garden Attendant of ASI and Sr. Malis of CPWD are getting pay scales as recommended by the Central Government Pay Commission for Central Government employees from time to time and after acceptance of the Arbitration Award by the Government in CPWD the denial of the same facilities by the management of ASI is violative of principle of equal pay for equal work of the same Government i.e. Central Government. The Sr. Garden Attendant designated as Gardener Grade III are entitled to get the pay scales of Sr. Malis of CPWD.

It was further submitted that there was no qualification prescribed for engagement of Sr. Malis for regular basis of CPWD and the ASI.

It was further submitted that the mode of employment, age of employment, retirement and duty hours are the same

and similar in case of Sr. Mali of CPWD and Sr. Garden Attendant of ASI.

There cannot be discrimination in the pay scales of Sr. Malis of CPWD and Sr. Garden Attendant designated as Gardner Grade - III of ASI.

It was submitted from the side of the management that there is no post as Sr. Garden Attendant at present in the ASI. The service conditions of Sr. Malis working in the CPWD under work charge category cannot be compared with the service conditions of Jr. Foreman (H) permanent staff of ASI.

It was further submitted that the agreement executed between the management of CPWD and their workmen is related to the work charge staff of CPWD. The agreement entered into the management of CPWD and their workmen is not applicable to the workmen of ASI as they are governed by different ministries of the Central Government.

It was further submitted that the duties of Sr. Foreman in the ASI is as per requirement of monuments which comes under the heritage properties and whereas the Sr. Mali of CPWD are maintaining only the public parks. The Horticulture Department of ASI is not profit earning department. The CPWD Sr. Malis are under work charge staff and the Jr. Foreman in ASI is regular staff.

It transpires from perusal of the record that there is Arbitration Award in respect of Malis of CPWD. The Arbitration Award has been implemented and the pay scale of Sr. Mali were revised from 1-1-1973 on notional basis and arrears of wages were paid w.e.f. 1-4-1981 in the old pay scale of Rs. 260-400 subsequently revised to Rs. 950-1500 and revised after the acceptance of 5th Pay Commission of pay scale of Rs. 3050-4590.

It also becomes obvious from the record that the pay scale of Sr. Garden Attendant have also been revised from time to time. Sr. Garden Attendant of ASI were getting wages in old pay scale of Rs. 210-290 w.e.f. 1-1-1973 and after revision of pay scale w.e.f. 1-1-1986 in the pay scale of Rs. 800-1150 w.e.f. 1-1-1996 in the pay scale of Rs. 2650-4000.

The Sr. Garden Attendant at present are getting salary in the pay scale of Rs. 2650-4000 after the recommendation of 5th Pay Commission and the Sr. Mali of CPWD after acceptance recommendations of the 5th Pay Commission are in the pay scale of Rs. 3050-4590.

The 5th Pay Commission in Para 55.126 has held that no specific educational qualification has been prescribed, experience ranging from one year to five years is considered essential for appointment in the initial entry scale and the 5th Pay Commission desires that uniform designations, educational qualification, scales of pay for different post of Horticulture staff in the ministries and department should be made uniform. The 5th Pay Commission has categorized the Malis into 7 categories working in different ministries and has prescribed pay scale also.

In the Vth Pay Commission in Para 55.126 has only observed that educational qualification etc. of all the Malis of Horticulture Department should be the same and there should be consolidated salary. The commission made gradation of the Malis as Shramik, Semi-skilled, skilled, highly skilled etc.

The Vth Pay Commission has recommended Scales of Horticulture Staff in the Central Public Works Department in Para 55.127 and 55.128. The Vth Pay Commission has further recommended the pay structure of the Horticulture Staff in Para 55.129. The Vth Pay Commission has also in Para 55.131 mentioned the pay structure of the Horticulture Staff of the Railways.

The Vth Pay Commission has considered the representations of the Horticulture Staff of the CPWD, ASI and Railways and different Pay Scales have been prescribed. The Pay Commission has not anywhere recommended that the Horticulture Staff of all the Ministries and Railways should get equal pay.

The initial educational qualification should be the same. The process of recruitment should be the same and there should be the same nature of work. It has not been explained as to what are the qualifications of the Sr. Malis of CPWD and Garden Attendant Grade-III of the ASI. It has also not been disclosed as to after what service period the Malis are promoted to Sr. Malis and the Gardner in ASI are promoted to Sr. Garden Attendant or Gardner Grade-III. The different service period may be prescribed for promotion to the Sr. Malis in the CPWD and there may be different service period for promotion of Sr. Garden Attendant/Gardner Grade-III. No such evidence has come in this case. There may be a mere sophisticated and technical work in maintaining public parks in the CPWD. It may not require the same skill in maintaining the Archaeological Sites. The Sr. Malis of the CPWD are maintaining public parks whereas the Sr. Garden Attendants perform their duties on old monumental sites. It cannot be said that equal technical skill is required in discharging the duties in the ancient monuments and sites of the ASI and the public parks of the CPWD.

For complying with the principle of equal pay for equal work there are inherent difficulties in comparing and evaluating the work done by different persons in different organizations. For invoking the principle for equal pay for equal work there should be complete and wholesale identity between the employees claiming identical pay scales.

The Hon'ble Apex Court has observed in (2003) 1 SCC 250 the applicability of equal pay for equal work it is not dependent on the nature or volume of work but also on the qualitative difference in reliability and responsibility.

The Vth Pay Commission after considering the representations of the Horticulture Staff of CPWD, the Railways, the ASI has recommended different pay structures. The Vth Pay Commission is a fact finding

commission. It must have dealt with all the aspects of the matter and has recommended the pay structures.

It has not been pointed out as to how the recommendations of the Vth Pay Commission is discriminatory and the Vth Pay Commission has violated the principle of equal pay for equal work. The nature of work and the responsibilities may not be the same in both the departments and that is why the Vth Pay Commission has recommended different pay structures for the Staff of the Horticulture Department of the ASI, CPWD and the Railways. It is not easy to apply the principle of equal pay for equal work mathematically. In the instant case no inequality has been pointed out. The organizations are different, the nature of work is different, so the principle of equal pay for equal work is not applicable in respect of the Gardner Grade - III of the ASI and the Sr. Malis of the CPWD.

This issue is decided accordingly.

The reference is replied thus:

The demand of the Akhil Bhartiya Puratatav Sarvekshan Kamgar Union, New Delhi for giving the pay scale of Sr. Mali of CPWD to Sr. Garden Attendants (now designated as Gardner Gr.III) working in Archaeological Survey of India w.e.f. 1-1-1973 is neither legal nor justified. The workmen applicants are not entitled to get any relief as prayed for.

The award is given accordingly.

Date: 31-12-2007.

R.N. RAI, Presiding Officer

नई दिल्ली, 14 जनवरी, 2008

का.आ. 231.-औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, मै. हुट्टी गोल्ड माईन्स कंपनी लिमिटेड के प्रबंधक के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, बंगलौर, के पंचाट (संदर्भ संख्या 21/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-1-2008 को प्राप्त हुआ था।

[सं. एल-43012/1/2005-आई आर (एम)]

एन.एस. बोरा, डेस्क अधिकारी

New Delhi, the 14th January, 2008

S.O. 231.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award Ref. No. 21/2005 of the Central Government Industrial Tribunal-cum-Labour Court Bangalore, now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. Hutti Gold Mines Co. Ltd., and their workman, which received by the Central Government on 14-1-2008.

[No.L-43012/1/2005-IR(M)]

N. S. BORA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

Dated 27th December, 2007

PRESENT :

Shri A.R. SIDDIQUI : Presiding Officer :

C.R. No. 21/2005

I PARTY :

Shri Hassan Baig,
S/o. Shri Yukub Baig,
Ex. Met. T. No. 271, House No. 8/20,
Jatti Line, Hutti Gold Mines
P.O. Hatti Lingusugar Taluk,
Karnataka, Raichur-584115

II PARTY

The General Manager,
M/s. Hutti Gold Mines Co. Ltd.,
PO Raichur,
Dist. Karnataka,
Raichur.

AWARD

The Central Government by exercising the powers conferred by clause (d) of Sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute *vide* Order No. L-43012/1/2005 -IR(M) dated 27th April, 2005 for adjudication on the following schedule :

SCHEDULE

"Whether the action of the management of M/s. Hutti Gold Mines Co. Ltd., in dismissing the services of Shri Hassan Baig Ex. T. No. 271 is justified? If not, to what relief the workman concerned is entitled.?"

2. A charge sheet dated 29-5-2002, was served upon the first party workman for his alleged unauthorised absence for a period of 134 days seeking his explanation in the matter. It appears that the explanation offered by the first party not being found satisfactory, a DE was ordered against him and after due notice of the enquiry, enquiry commenced on 6-8-2002 attended by the first party. He was explained with the procedure of the enquiry and being read over with the charges of misconduct of his unauthorised absence from duty, he said to have pleaded guilty to the charges and thereupon his statement was recorded accordingly and enquiry findings submitted holding him guilty of the charges. Based on the findings of the enquiry officer, a show cause notice dated 1-10-2002, was issued to the first party seeking his explanation and once again his explanation not being found satisfactory, he was dismissed from service by impugned dismissal order dated 8-11-2002. The first party appears to have raised the dispute with the authority concerned resulting into the present proceedings.

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3. After the receipt of the reference, both the parties were issued notices and have made appearances through counsels. Learned counsel Shri KVS filed his power for the first party on 2-09-2005 and thereupon the case underwent several adjournments up till 10-03-2006 affording the opportunity to the first party and his counsel to register the claim statement. The first party did not choose to file the claim statement and then the matter came to be posted for filing of the counter statement by the second party management.

4. The management filed its counter statement and on the basis of the contentions taken by the management that dismissal order against the first party came to be passed after conducting a departmental enquiry, the court thought it proper to frame the DE issue, accordingly. During the course of trial of the said issue the management examined the enquiry officer as MW1 and got marked six documents at Ex.M1 to M6 including the enquiry proceedings and the enquiry report.

5. After having heard the learned counsel for the management (the first party remained and unrepresented) this tribunal by order dated 19-11-2007 recorded a finding on the above said DE issue to the effect that the Domestic Enquiry conducted against the first party by the second party is fair and proper. Then the matter was taken up to hear the parties on merits. On 29-11-2007, learned counsel appearing for the first party filed a memo of no instructions along with the postal cover for having sent notice to the first party showing his intention to retire from the case. Therefore, after having heard the learned counsel for the second party, the matter is posted this day for award.

6. Keeping in view the findings given by this tribunal on the preliminary issue to the effect that enquiry held against the first party is fair and proper, the only question now to be considered would be "whether the enquiry findings suffered from any perversity, and if not, the quantum of the punishment was proportionate to the gravity of the misconduct committed by the first party".

7. As noted above, there was no claim statement filed on behalf of the first party nor the statement of the enquiry officer was challenged by way of his cross examination. On the other hand, the learned counsel for the first party filed his memo of no instructions retiring from the case with due notice to the first party. From the perusal of the enquiry proceedings as well as the enquiry findings marked before this tribunal at Ex. M5 & M6 respectively, it can be revealed that on the first date of enquiry held on 06-08-2002, the first party attended the enquiry and after being read over with the charges of misconduct he pleaded guilty to the charges with a rider that he remained absent from duty for having given VRS application under the impression that he might have been relieved from the job accepting his VRS application. The learned enquiry officer as could be seen from the enquiry findings has referred to the statement of the first party

recorded by him during the course of enquiry where under he pleaded guilty to the charges but with an explanation that he remained absent from duty for the reasons aforesaid. However, since admittedly the first party remained absent from duty without prior permission and without sanction of the leave for a continuous period of about 134 days, the learned enquiry officer hold him guilty of the misconduct of remaining absent from duty unauthorisedly and accordingly submitted his findings. As noted above, on the basis of the findings of the enquiry officer, a show cause notice was issued to the first party seeking his explanation in the matter and once again his explanation not being found favour with the disciplinary authority, he was dismissed from service. Therefore, having regard to the fact that the first party pleaded guilty to the charges during the course of enquiry and has also remained absent before this tribunal despite being represented through counsel and did not choose to file his claim statement either challenging the enquiry proceedings or challenging the dismissal order passed against him, by no stretch of imagination, it can be said that findings of the enquiry officer suffered from any perversity.

8. Now coming to the question of quantum of the punishment. It appears to me that dismissal order passed against the first party for his unauthorised absence for a period of 134 days is shockingly disproportionate to the gravity of the misconduct, particularly, in the light of the explanation offered by the first party by way of his statement recorded during the course of enquiry that he did not turn up for duty having made an application seeking VRS and under the impression that it would have been accepted and he will be relieved from the job, which statement of the first party has gone unchallenged and uncontroverted there being no cross examination to the first party on the said statement and also there being no denial of this fact in the counter statement filed by the management before this tribunal. In the result, it appears to me that ends of justice will be met if one more opportunity should be given to the first party to reform himself and to be regular to his duties by giving him the relief of reinstatement.

9. Now coming to the question of back wages and continuity of service and other consequential benefits. As noted above, the first party did not appear before this tribunal nor filed his claim statement making out a case that he has not been gainfully employed during the period he was away from the service of the management. In the result by way of punishment the first party has to be denied the back wages from the date of the dismissal order till the date of his reinstatement without continuity of service and other consequential benefits.

Hence the following Award:

AWARD

The impugned punishment of dismissal is set aside. The management is directed to reinstate the first party

workman into its services without back wages, continuity of service and other consequential benefits. No costs.

(Dictated to PA transcribed by her corrected and signed by me on 27th December, 2007)

A.R. SIDDIQUI, Presiding Officer

नई दिल्ली, 14 जनवरी, 2008

का.आ. 232.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार खेतड़ी कॉपर कॉम्प्लैक्स के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जयपुर के पंचाट (संदर्भ संख्या सीआईटी-26/1995) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-1-2008 को प्राप्त हुआ था।

[फा. सं. एल-43012/17/1994-आई आर (एम)]

एन. एस. बोरा, डेस्क अधिकारी

New Delhi, the 14th January, 2008

S.O. 232.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. CIT-26/1995) of the Central Government Industrial Tribunal-cum-Labour Court, Jaipur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Khetri Copper Complex, and their workman, received by the Central Government on 14-1-2008.

[F. No. L-43012/17/1994-IR (M)]

N. S. BORA, Desk Officer

अनुबंध

केन्द्रीय औद्योगिक न्यायाधिकरण, जयपुर

केस नं. सी. आई. टी. 26/1995

श्री मांगी लाल मोणा (मृतक) जरिये उनका कायम मुकामात श्रीमती कमला पत्नी श्री मांगी लाल मोणा, लिनयासी गांव धोयना (आयुना) पोस्ट धोन्धना (अगूना) जिला झुंझनू

—प्रार्थी

बनाम

दी प्रोजेक्ट मैनेजर, खेतड़ी कॉपर कॉम्प्लैक्स, कोडी नगर, खेतड़ी, जिला झुंझनू।

—अप्रार्थी

उपस्थित

पीठासीन अधिकारी: श्री गौतम प्रकाश शर्मा, आर. एच. जे. एस.

प्रार्थी की ओर से : श्री सुरेश काश्यप

अप्रार्थी की ओर से : श्री अशोक वर्मा

दिनांक अवाद : 10-10-2007

अवाद

1. निम्न अनुसूची का निर्देश श्रम मंत्रालय भारत सरकार द्वारा जरिये क्रमांक एल-43012/17/94-आई.आर. (विविध) दिनांक 10-5-95 से इस अधिकरण को अधिनियम हेतु निर्देशित किया गया है:

“Whether the action of the management of Khetri Copper Complex, Khetri Nagar in terminating the services of Shri Magilal Meena S/o Shri Bhagirath Meena Mihaar Code No. 38515 w.e.f. 23-9-89 is justified? If not, to what relief the workman is entitled?”

प्रकरण में प्रार्थी की ओर से स्टेटमेंट ऑफ डिमाण्ड पेश हुआ जिसका जवाब अप्रार्थी नियोजक की ओर से पेश किया गया। प्रकरण में प्रार्थी के विरुद्ध करवाई की गई घरेलू जांच को अधिकरण के आदेश दिनांक 18-11-2000 से अशुद्ध व अनुचित घोषित किया गया तथा आरोप सिद्ध करने हेतु अप्रार्थी नियोजक को साक्ष्य का अवसर दिया गया। साक्ष्य में श्री जयनारायण के बयान कराये गये। दिनांक 28-5-2005 को अप्रार्थी नियोजक के गवाह उपस्थित थे किन्तु एक आवेदन प्रार्थी की ओर से पेश हुआ कि प्रार्थी श्रमिक का देहान्त हो चुका है। अतः, उसके कायम मुकामात को रिकार्ड पर लिया जाये। दिनांक 7-10-2006 से मृतक श्रमिक के कायम मुकामात को रिकार्ड पर लिया गया एवं प्रकरण साक्ष्य अप्रार्थी में लंबित रहा। दिनांक 21-4-2007 को आदेशिका के अनुसार अप्रार्थी ने साक्ष्य पेश करनी नहीं चाही। चूंकि प्रार्थी श्रमिक की मृत्यु हो चुकी थी, अतः, प्रकरण बहुत अंतिम में रखा गया।

3. प्रार्थी प्रतिनिधि को कहता है कि प्रथमतः प्रार्थी के विरुद्ध दुराचरण के आरोप सिद्ध नहीं होते हैं, इसके अतिरिक्त प्रार्थी की मृत्यु हो चुकी है अतः दुराचरण के संबंध में जो बचाव प्रार्थी मृतक श्रमिक का रहा है उसे अब श्रमिक की मृत्यु हो जाने से सिद्ध करना असंभव है। ऐसे हालात में मृतक प्रार्थी श्रमिक के विरुद्ध दुराचरण के आरोप सिद्ध नहीं माने जा सकते। उन्होंने दृष्टान्त 1995 (70) एफ. एल. आर. 244 (राजस्थान) श्रीमती प्रेम कुमारी व अन्य बनाम औद्योगिक न्यायाधिकरण व अन्य पेश किया।

4. गुणावगुण पर भी प्रार्थी के कायम मुकामात की ओर से बहस रही है कि प्रार्थी की अनुपस्थिति स्वेच्छा से नहीं थी बल्कि वह बीमार हो गया था जिसके संबंध में उसने बीमारी होने का प्रमाण-पत्र भी पेश किया।

5. अप्रार्थी प्रतिनिधि ने अपनी बहस में बताया कि घरेलू जांच को अशुद्ध एवं अनुचित घोषित करने के बाद नियोजक की ओर से गवाह श्री जय नारायण के बयान हुए हैं जिसने अपने शपथ पत्र में बताया कि प्रार्थी वर्ष 1985 से अक्सर कार्य से अनुपस्थित रहता था जिसका विवरण प्रदर्श एम-1 में होना बताया। वह दिनांक 8-3-89 से 10-3-89 तक के. सी. सी. अस्पताल में भर्ती रहा किन्तु उसे 11-3-89 से फिट घोषित कर दिया गया जिसका प्रमाण पत्र प्रदर्श एम-2 होना बताया। प्रदर्श एम-3 फार्म के अनुसार प्रार्थी 20-9-88 को कार्य पर उपस्थित नहीं हुआ। प्रार्थी के घर पर इस संबंध में रजिस्टर्ड पत्र दिनांक 13-4-89 भिजवाया जो प्रदर्श एम-4 होना

बताया। प्रदर्श एम-5 के द्वारा प्रार्थी ने अपनी अस्वस्थता के आधार पर अवकाश स्वीकृति की प्रार्थना की है किन्तु अस्वस्थता प्रमाण-पत्र संलग्न नहीं होने से कोई कार्यवाही नहीं हुई, उसे फिर पत्र भेजा जिसकी प्रति प्रदर्श एम-6 होना बताया। प्रार्थी की ओर से डी. डी. चानणा पेडीकल ऑफीसर दुर्गादेवी राजकीय/मैमोरियल अस्पताल बिडावा का अनफिट सर्टीफिकेट प्रदर्श एम-7 व एम-8 भेजे जिनमें काट छांट थी अतः प्रार्थी को यह आरोप पत्र जारी हुआ जो उसके गांधी के पते पर रजिस्टर्ड डाक से भेजा गया किन्तु नोटिस वापस प्राप्त हो गया अतः एकपक्षीय जांच करके उसे दण्डित करने का निर्णय लिया जो निर्णय सही है। उनकी आगे बहस है कि जयनारायण को शपथ पत्र दिनांक 7-3-2001 को पेश हुआ जिस पर दिनांक 7-4-2001 को प्रार्थी की ओर से जिरह भी की गई है एवं लंबे समय बाद दिनांक 3-9-2005 को प्रार्थी की मृत्यु होने का तथ्य अवगत कराया गया है। इन सभी तथ्यों को देखते हुए एवं गवाह जयनारायण के बयानों को देखते हुए प्रार्थी के विरुद्ध दुराचरण के आरोप सिद्ध हैं। उनकी यह भी बहस है कि अप्रार्थी के विविध उत्तराधिकारीगण रिकार्ड पर हैं एवं आरोप अनुपस्थिति का है अतः वे भी साक्ष्य पेश कर सकते थे किन्तु प्रार्थी की ओर से साक्ष्य पेश नहीं की गई है अतः आरोप सिद्ध माना जाये।

6. मैंने बहस पर गौर किया तथा दृष्टान्त जो प्रार्थीओं के विधिक वारिसान की ओर से पेश हुआ उसका भी अध्ययन किया।

7. प्रार्थी का देहान्त दिनांक 28-9-2000 को होने का मूल प्रमाण पत्र पत्रावली पर है तथा उसके वारिसान को रिकार्ड पर लिये जाने का आदेश भी हुआ है। यह अवश्य है कि प्रार्थी के देहान्त की सूचना उसके देहान्त के पाँच वर्ष के बाद रिकार्ड पर लाई गई है। प्रदर्श एम-2 जो स्वयं अप्रार्थी की ओर से पेश हुआ है, को देखने से भी प्रार्थी टी. बी. की बीमारी का मरीज था। प्रकरण में घरेलू जाँच को अशुद्ध माना गया है एवं नियोजक को दुराचरण के आरोप सिद्ध करने का अवसर अधिकरण द्वारा दिया गया है। इस हालात में प्रार्थी श्रमिक को भी अपना पक्ष रखने का अवसर मिलता यह तथ्य स्वीकृत शुद्ध है एवं आरोपित दुराचरण के संबंध में बचाव प्रार्थी स्वयं ही करने में सक्षम था, अब चूंकि उसकी मृत्यु हो चुकी है, अतः उसके विरुद्ध लगाये गये दुराचरण के आरोपों का बचाव संभव नहीं रहा है। इन हालात में उसके विरुद्ध दुराचरण के आरोप सिद्ध नहीं माने जा सकते। दृष्टान्त वाले मामले में घरेलू जाँच को अशुद्ध माना गया था एवं अधिकरण में साक्ष्य हुई थी तथा अधिकरण ने मृतक के विरुद्ध आरोप भी सिद्ध माने इसके बावजूद भी मृतक की मृत्यु की तिथि तक उसकी सेवा के लाभ दिलवाये गये हैं। हस्तगत प्रकरण में जांच लंबित रहने की अवधि में ही श्रमिक की मृत्यु हुई है तथा उसकी मृत्यु के बाद तथा उसकी मृत्यु का तथ्य जब रिकार्ड पर लाया गया था तब भी प्रकरण नियोजक की साक्ष्य में ही था एवं नियोजक की ओर से और गवाहान पेश होने थे, जो चूंकि श्रमिक की मृत्यु हो चुकी थी अतः नियोजक की ओर से पेश नहीं हुए हैं। इन सभी हालात व तथ्यों को देखते हुए मैं प्रेषित किये गये निर्देश का उत्तर निम्न प्रकार से देना उचित समझता हूँ :

“प्रार्थी श्रमिक श्री मांगी लाल मोणा की सेवाएं जो नियोजक द्वारा दिनांक 23-9-89 को समाप्त की गई हैं, उचित एवं वैध नहीं हैं तथा मृतक श्रमिक के विरुद्ध पारित सेवा मुक्ति का उक्त आदेश अपास्त किया जाता है। मृतक प्रार्थी के विधिक वारिसान प्रार्थी को मृत्यु दिनांक 28-9-2000 तक प्रार्थी को मिलने वाले समस्त लाभ नियमानुसार प्राप्त करने के अधिकारी हैं।”

8. अवार्ड आज दिनांक 10-10-2007 को खुले न्यायालय में लिखाया जाकर सुनाया गया।

9. अवार्ड की प्रति भारत सरकार को नियमानुसार भेजी जाये।

गौतम प्रकाश शर्मा, न्यायाधीश

नई दिल्ली, 14 जनवरी, 2008

का.आ. 233.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) को धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. हुट्टी गोल्ड माईन्स कम्पनी लिमिटेड के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, बंगलौर के पंचाट (संदर्भ संख्या 03/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-1-2008 को प्राप्त हुआ था।

[सं. एल-43012/6/2003-आई आर (एम)]

एन. एस. बोरा, डेस्क अधिकारी

New Delhi, the 14th January, 2008

S.O. 233.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 03/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Bangalore now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Hutti Gold Mines Co. Ltd., and their workmen, which was received by the Central Government on 14-1-2008.

[F.No.L-43012/6/2003-IR(M)]

N. S. BORA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

Dated : 17th December, 2007

PRESENT

SHRI A. R. SIDDIQUI, Presiding officer

C. R. No. 03/2004

Shri Venkata Swamy,
Ex. T.19, Security Deptt.,
House No. 4/5, G. R. Colony,
Hutti Gold Mines Co. Ltd.,
Post Hutti, Ungasugur,
RAICHUR

Ist Party

The General Manager,
M/s. Hutti Gold Mines Co. Ltd,
PO, Raichur Distt. Karnataka
RAICHUR

IInd Party

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide order No. L-43012/6/2003-IR (M) dated 29th December, 2003 for adjudication on the following schedule :—

SCHEDULE

2. The case of the first party workman as made out in the claim statement, in brief, is that he being served with a charge sheet dated 23-1-2002 on the allegations of unauthorised absence from duty for a period of 24 months i.e. from 3-1-2000 to 23-1-2002, submitted his explanation dated 11-02-2002 stating that he was suffering from 'Jaundice' and right Fracture for which he was taking treatment and that he also produced the medical certificate for the said period. However, without considering his explanation, enquiry was conducted against him on 23-3-2002 and was concluded just within 10 minutes. He contended that during the course of enquiry he was not given opportunity to prove his innocence to show that he availed leave on medical ground and produced medical certificates. His submission to the above effect to the enquiry officer was not considered by him and he submitted his findings holding him guilty of the charges. He contended that enquiry officer was biased against him and that enquiry was not conducted in accordance with the principles of natural justice giving him opportunity of hearing or an opportunity to defend himself. He contended that based on the perverse findings of the enquiry officer, the management issued a show-cause notice dated 10-6-2002 proposing the punishment of dismissal and to that he submitted his reply dated 17-6-2002 but that was not considered by the Disciplinary Authority and he was dismissed from service by order dated 28-8-2002 which order is not sustainable in the eye of law. He also contended that even assuming for a moment that he admitted the guilt, the punishment of dismissal passed against him is disproportionate to the gravity of the charges of misconduct and therefore, is liable to be set aside by this tribunal invoking the provisions of Section 11A of the ID Act. Therefore, he requested this tribunal to set aside the dismissal order with the relief of reinstatement, back wages, continuity of service and other consequential benefits.

3. The management by its counter statement however, contended that the explanation given by the first party to the aforesaid charge sheet not being found satisfactory, a DE was ordered against him; that during the course of enquiry sufficient opportunity was given to the first party to attend and participate and to defend himself and to explain the misconduct alleged against him. The enquiry

officer held him guilty of the charges by submitting his findings and thereupon a second show cause notice was issued to the first party proposing the punishment of dismissal and his reply to the notice dated 17-6-2002 once again not being found satisfactory, he was dismissed from service. His appeal against the dismissal order was also dismissed and therefore, the dismissal order passed against him is just and legal and also the punishment is proportionate to the gravity of the misconduct committed by him.

4. Keeping in view the respective contentions of the parties, this tribunal on 29-12-2004 framed the following preliminary issue:

“Whether the Domestic Enquiry conducted against the first party by the second party is fair and proper”.

During the course of trial of the said issue, the management examined the enquiry officer as MW1 and got marked 7 documents at Ex. M1 to M7 including the charge sheet, the proceedings of the enquiry, the enquiry report and the dismissal order passed against the first party. The first party also examined himself as WW1 and got marked no documents. After hearing the learned counsels for the respective parties, this tribunal by order dated 20-3-2007 recorded a finding on the said issue in favour of the management holding that the DE conducted against the first party by the second party is fair and proper. Thereupon, I have heard the learned counsels on the point of alleged perversity of the findings and on the quantum of the punishment.

5. Learned counsel for the first party in his arguments, vehemently, contended that the first party infact remained absent from duty for a period of 14 months and not for a period of 24 months as shown in the charge sheet by mistake. He contended that the absence of the first party from duty was on account of he having suffered fracture in Motorcycle Accident and for the reason that he suffered from the disease, Jaundice. He submitted that accordingly, the first party had given his reply to the charge sheet but neither his reply was considered nor his leave applications or the medical certificates produced by him were considered. He then produced two Xerox copies of the medical certificates, one showing that he was suffering from chronic Peptic ulcer and was absent from duty from 2-9-2000 to 10-3-2001 and the other certificate to show that he was suffering from Viral Hepatitis and therefore, remained absent from duty between 15-9-2001 to 15-2-2002. Learned counsel also cited the following 4 decisions in support of his arguments that enquiry conducted against the first party without the management producing any oral or documentary evidence was no enquiry in the eye of law and that the finding given by the enquiry officer on the ground that the first party pleaded guilty of the charges were perverse as no such plea of guilt was made by the first party during the course of enquiry also on the point

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that even otherwise this tribunal has got powers to exercise its jurisdiction under Section 11A of the ID Act, to modify the punishment of dismissal by way of lesser punishment.

1. LLJ 1986 SC 101
2. AIR 1989 SC 149
3. 1995 LAB IC 2446
4. 2002 II LLJ SC 775

6. Learned counsel for the management on the other hand argued that from the statement of the enquiry officer and the proceedings of the enquiry conducted by him it is crystal clear that the first party on the very first sitting of the enquiry, when, was read over with the charges, pleaded guilty to the charges and therefore, there was no need for the enquiry officer to call upon the management to produce any oral or documentary evidence to establish the charges of misconduct leveled against the first party. She contended that undisputedly, the first party remained absent from duty for the period shown in the charge sheet without submitting any leave application, much less, getting the leave sanctioned and that he never submitted any medical certificate with the management even along with the reply to the charge sheet. He contended that the very defence taken by the first party that he suffered from some accident or was also suffering from Jaundice is an after thought defence as no medical certificate to the above effect was submitted to the management at any point of time. She submitted that the two medical certificates now produced by the first party cannot be read in evidence as first of all they are Xerox copies and secondly, they have not been marked during the course of evidence much less during the course of deposition of the first party. With regard to the quantum of the punishment, learned counsel submitted that the second show cause notice issued to the first party would disclose that not only he committed the misconduct of unauthorised absence for the period in question but also in the past he remained absent from duty on four occasions and was placed under suspension on each of the four occasions. His increment was held for whole of the period of his service of 21 years on account of his irregular performance of the duty. She contended that the first party was working as a Security Guard and therefore, such an irregular employee doing the duty of the Security Guard cannot be allowed to continue in service for remaining absent from duty that two years together. She took support of the following 3 decisions to prove her points.

1. 2001(3) LLN 583 Kar HC
2. 1991 (II) LLN Kar HC
3. 2005 SCC (L&S) 689

7. After having gone through the records, I find substance in the arguments advanced for the management. As could be read from the proceedings of the enquiry and the enquiry findings, the first party on the very first sitting

of the enquiry held on 23-3-2002 in no uncertain terms pleaded guilty to the charges of misconduct leveled against him. As could be read from the enquiry proceedings, when he was read over with the charges and was asked whether he pleaded guilty to the charges of unauthorised absence from duty for the period in question and till the date the enquiry sitting was held, his reply was to the effect that he committed the misconduct. Accordingly, as noted above, the enquiry officer has given his findings and it is now well settled principle of law that when the delinquent admitted the guilt, there is no need for the enquiry officer to conduct a full dress enquiry, calling upon the management to produce any oral or documentary evidence to substantiate the charges of misconduct leveled against the delinquent. That apart, as noted above, the first party by way of his reply to the charge sheet itself nowhere has stated that he remained absent from duty after having applied for leave much less leave on medical ground or that he had submitted his leave application along with medical certificate. Therefore, it goes without saying that the absence of the first party from duty was without any sanction of leave or without any prior permission of the management authority during the period in question. In order to justify his absence, the only explanation given by the first party was to the effect that he suffered from some motor accident and that was also suffering from Jaundice. It was rightly argued for the management that this explanation given by the first party is against the actual facts. As per the explanation, he said to have suffered from accident on 24-6-2001 and thereafter took treatment at KIM hospital for having suffered from Jaundice. There is absolutely nothing mentioned in his reply to the charge sheet as to what prevented him from reporting duty from 01-09-2000 till 24-06-2001, the date on which he says he suffered from the motor accident. Moreover, the defence of the first party that he suffered from some accident or disease called Jaundice certainly appears to be an after thought defence as no medical certificate was submitted by him along with the reply to the charge sheet. As noted above, it is after the case was closed for evidence and arguments were heard, learned counsel for the first party has filed the aforesaid Xerox copies of two medical certificates. It is not explained as to what happened to the original certificates nor any attempt was made on the part of the first party to get these two certificates marked during the course of evidence. Even otherwise, the fact that the first party suffered from accident remains to be established, as these two certificates do not speak to the fracture he suffered out of the accident and that for that fracture he was under any medical treatment. On the other hand the first certificate is to show that he is suffered from chronic Peptic Ulcer and the second certificate says that he suffered from Viral Hepatitis. Therefore, the certificates produced by him infact go contradictory to the defence taken by him. In the result there is no hesitation for this tribunal to come to the conclusion that the first party pleaded guilty to the charges

during the course of enquiry and that findings of the enquiry officer rendered on the basis of the plea of guilt suffered from no perversity.

8. Now, comes the question as to whether the dismissal order passed against the first party is disproportionate to the gravity of the misconduct committed by him. I find substance in the arguments advanced for the management that punishment on hand cannot be said to be excessive keeping in view the gravity of the misconduct. As per the charge sheet he remained absent from duty unauthorisedly continuously for a period of 24 months. The second show-cause notice referred to supra goes to suggest that he was punished by imposition of minor penalties on four occasions and that during the course of his 21 years service he earned no increment to his salary. There was no denial of this fact by the first party when he replied to the said show-cause notice. Therefore, having regard to his past conduct and his absence from duty for a period of about 2 years, that too, without any leave application being submitted much less the leave being sanctioned or without any prior permission of the management that too, when he was supposed to discharge the essential services of a Security Guard, it cannot be said that the misconduct committed by him deserves any lesser punishment. It was well argued for the management that the services of such an employee who was doing the duty of security guard and was remaining absent from duty on mindful of consequences cannot be allowed to be continued in service by the management. Therefore, the punishment of dismissal imposed upon him as such cannot be faulted with. However, having taken into consideration that the first party was in the service of the management for a sufficient long time i.e. for a period of about 21 years, it appears to me that ends of justice will be if he is ordered to retire from service compulsory instead of dismissing him from service. Hence the following award:

AWARD

The impugned punishment of dismissal passed against the first party is hereby modified by retiring him compulsorily from service w.e.f. from the date of the original dismissal order. No costs.

(Dictated to PA, transferred by her, corrected and signed by me on 17th December, 2007)

A. R. SIDDIQUI, Presiding Officer

नई दिल्ली, 15 जनवरी, 2008

का.आ. 234.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. बी. सी. सी. एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण (सं.-II), धनबाद के पंचाट (संदर्भ संख्या 29/94) को

प्रकाशित करती है, जो केन्द्रीय सरकार को 15-1-2008 को प्राप्त हुआ था।

[सं. एल-20012/121/92-आई आर (सी-1)]

स्नेह लता जवास, डेस्क अधिकारी

New Delhi, the 15th January, 2008

S.O. 234.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 29/94) of the Central Government Industrial Tribunal-II, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 15-1-2008.

[No. L-20012/121/92-IR (C-1)]

SNEH LATA JAWAS, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO-2) AT DHANBAD

PRESENT

SHRI NAGENDRA KUMAR,
PRESIDING OFFICER

In the matter of a Reference under Section 10(1)(d) of
the I. D. Act, 1947.

REFERENCE NO. 29 OF 1994

Parties : Employers in relation to the management
of East Bassuriya Colliery of M/s BCCL
and their workman.

APPEARANCES

On behalf of the workman : Mr. D. Mukherjee,
Secretary, Bihar Colliery
Kamgar Union and
Mr. K. Chakravorty,
Advocate.

On behalf of the employers : Mr. S. N. Sinha,
Advocate.

State : Jharkhand Industry : Coal.

Dated, Dhanbad, the 17th December, 2007.

AWARD

The Govt. of India, Ministry of Labour and Employment in exercise of the powers conferred on them under Section 10(1) (d) of the I. D. Act, 1947 has referred the following disputes to this Tribunal for adjudication vide their order No. L-20012 (121)92-I.R. (Coal-I), dated, the 15-4-93.

SCHEDULE

"Whether the demand of Bihar Colliery Kamgar Union for treating the date of Birth of Shri Bhatu Mondal, Mec. Fitter, East Bassuriya Colliery of BCCL as 1-1-1954 instead of 1-1-1944 is justified? If so, to what relief the workman is entitled for?"

2. The case of the workman in short is that Shri Bhatu Mondal was working as Mechanical Fitter of East Bassuriya since 31-1-1973. He had submitted before the management to record his date of birth as 1-1-1954 but due to inadvertent mistake his date of birth was recorded as 1-1-1944. The concerned workman had represented before the management for change of his date of birth. He has also filed his School Leaving Certificate before the management where his date of birth was noted as 10-2-1954. The concerned workman was issued a Service Excerpt regarding his date of birth as 1-1-1944 which objected by the workman. The management did not get the age determined through Medical Board following the mandatory direction of Medical Jurisprudence. The union had raised industrial dispute before the ALC(C) Dhanbad which failed and thereafter the dispute was referred to this Tribunal for adjudication. The demand of the union for treating the date of birth of the concerned workman as 1-1-1954 is legal and justified. The action of the management in not recording the date of birth as 1-1-1954 is arbitrary, illegal, unjustified and against the principle of natural justice. Accordingly prayer has been made to answer the reference in favour of the workman by directing the management to treat the date of birth as 1-1-1954.

3. The case of the management as it appears from the Written Statement-cum-rejoinder is that when the concerned workman Bhatu Mondal raised dispute of his date of birth the matter was referred to Special Medical Board Kustore Central Hospital on 30-11-1988. Special Medical Board recorded the date of birth of the concerned workman as recorded in C. M. P. F. i.e. 1-1-1944. As per further case of the management the date of birth of the workman is 1-1-1944 as per record of C.M.P.F. and the same is in service Excerpt which was given to the concerned workman on 5-7-1989. The case regarding determination of age by Special Medical Board was referred along with the case of this workman and 22 other employees. The Special Medical Board, Central Hospital Kustore decided the matter of age on 30-11-88. The date of birth of the concerned workman is 1-1-1944 which is also recorded in C. M. P. F. record as well as in Statutory register. The concerned workman was appointed on 31-1-1973 and Identity Card was issued in 1974. He had put his signature/LTI in the Form B Register at the time of his appointment in the Colliery. He had not raised any dispute regarding wrong recording of his date of birth during the tenure of 15 years of service. In spite of this his representation was considered and the matter was referred to Medical Board where he was examined on 30-11-88 and the Medical Board found that the age was correctly recorded as given in C. M. P. F. i.e. 1-1-1944, in spite of the fact that as per JBCCI decision if there was no variation in the record such cases will not be re-opened unless there is glaring and apparently wrong entry. In spite of this the management had agreed to refer the case to the Medical Board. Accordingly the

management has prayed to reject the prayer/claim of the workman.

4. Points to be decided

"Whether the demand of Bihar Colliery Kamgar Union for treating the date of Birth of Shri Bhatu Mondal, Mec. Fitter, East Bassuriya Colliery of BCCL as 1-1-1954 instead of 1-1-1944 is justified? If so, to what relief the workman is entitled for?"

5. Finding with reasons

Ld. Lawyer for the concerned workman has vehemently argued that the concerned workman raised dispute regarding wrong entry of his date of birth at the earliest when he got the information. He has further submitted that the management had not produced the original documents and only some documents had been produced which are photostat document. Different stories have been told by different witnesses at different stages regarding production of original document which are contradictory statement and the photo copies of the documents cannot be relied. In support of his argument he has filed several decisions.

6. On the other hand, Ld. Lawyer for the management has submitted that the date of birth of the concerned workman was recorded in the Statutory register which is technically called Form B Register. On the basis of entry of such register entry of date of birth has been mentioned in the Identity Card which was issued to the concerned workman in the year 1973. Thus the concerned workman had every opportunity to understand the record of date of birth which is 1-1-1944. However, he raised the dispute of date of birth in the year 1988 after long tenure of service when the service excerpts were given. At such far end of service the date of birth cannot be disputed which has been recorded in the Statutory Form B Register. However, his case was referred to the Medical Board and the Medical Board expressed opinion regarding correctness of date of birth entered in the C. M. P. F. Register after examining the concerned workman. He has also submitted that the decisions filed by the workman is not applicable in the present facts and circumstances of the case. He has also submitted that the original documents were produced in the Court at the time of marking exhibits. Original documents are in other courts in connection with other cases.

7. To decide this case first thing has to be decided that when the concerned workman got information about the entry of his date of birth. From submission made on behalf of the workman it appears that he got the information of his wrong date of birth when the service excerpts were handed over to him. A carbon copy of the service excerpt is on the record which is Ext. M-4. From this service excerpt it appears that this excerpt was issued to the concerned workman in which the date of birth of the concerned workman has been shown as 1-1-1944. The concerned

workman was asked to fill up the left column. It appears that the concerned workman has put signature below which there is date "5-7-88". In this document the concerned workman has mentioned in the remark column that wrong entry of service file has been mentioned. His correct date birth is 1-1-54 and in 7th School Certificate it is 1-1-1954. However, from perusal of Ext. M-5 and Ex. M-5/1, M-5/2 it appears that in the service record the concerned workman has put the signature below which there is date 6-6-88. In this service record the date of birth has been mentioned as 1-1-1994.

8. Ld. Lawyer for the concerned workman has submitted that when for the first time the service excerpt was issued to the concerned workman he got the occasion to raise the dispute and ultimately when the conciliation proceeding ended without any result this reference was made. So it is not a case that the dispute has been raised at the fag end of the service rather on receipt of information. He has submitted that this was the appropriate occasion to raise the dispute and in support of his argument he has filed a decision of the Hon'ble Jharkhand High Court reported in 2007(3) JLJR.

9. On the other hand Ld. Lawyer for the management has vehemently argued that this is not the case here that the concerned workman got information about date of birth recorded in the records of BCCL during the year 1988 rather he had every information regarding his date of birth as 1-1-1944 during the year 1973/1974 when I. D. Card was issued to him. In fact the concerned workman was a workman under the Contractor. After nationalisation of collieries his services were regularised in the year 1973 and relevant entries in relevant registers were made on the basis of information available on records. During the course of such steps i.e. regularisation of service at no stage any document i.e. School leaving certificate showing his date of birth as 1-1-1954 was shown. There is signature/LTI in Form B register which is a statutory register when he was appointed on 31-1-1973. Accordingly his date of birth has also been mentioned as 1-1-1944 in the document of C.M.P.F. Form A. For 15 years the concerned workman did not raise any objection and at the fag end of his service he raised the dispute. However, he was referred to the Medical Board for assessment of age and after thoroughly examining the concerned workman Medical Board expressed in the opinion regarding his date of birth is 1-1-1944 as recorded in C.M.P.F. Register. Ld. Lawyer has further submitted that in view of the decision of the Hon'ble Jharkhand High Court reported in 2007(112), FLR 1104, 2001 Lab I.C.28, 2002 Lab I.C. 874, 2001 Lab. IC.1400 the concerned workman has raised the dispute of date of birth at the fag end of career and he is not entitled to get any relief and the reference may be answered accordingly. So far as the decisions referred to above submitted by the Ld. Lawyer for the management are concerned, it appears that the facts and circumstances of the present case is different.

However from the aforesaid decisions it appears that the dispute of date of birth cannot be raised and entertained at the fag end of the career and still the question remains when the concerned workman got information about his date of birth as 1-1-1944. From Ext. M-1 it appears to be copy of C.M.P.F. Register. It appears that the date of birth of the concerned workman is 1-1-1944. From Ext. M-2 it appears that the concerned workman viz. Bhatu Mondal was issued I.D. Card and it bears signature of the concerned workman which shows that he had received the I.D. Card mentioned at page 88-89 vide Sl. No. 228324 which is Ext. M-2/1. The date of birth was recorded as 1-1-1944. As per Ext. M-3 which is copy of the Form B Register the date of birth of the concerned workman has been shown as 1-1-1944.

10. The concerned workman during cross-examination has said that initially he was employed by the Thikadar and not by the management. Later on the management regularised the services of the contractor's workmen as a result of which his service was regularised by the management in the year 1973. He has no paper to show that he submitted his School Leaving Certificate to the management at the time of his employment. He received his I.D. Card from the management in the year 1973-74. Though he possessed the I.D. Card but just now he would not be able to produce the same. However, in his examination-in-chief he has stated that at the time of his employment he had submitted papers to the management showing his date of birth as 1-1-1954. He submitted School Leaving Certificate at that time. He got his employment under the management in the year 1973.

11. From the evidence of the concerned workman itself it appears that he was earlier working under the contractor and thereafter his services were regularised by the management in the year 1973. From his evidence it also appears that he was issued I.D. Card in the year 1973-74. However, this I.D. Card has not been produced. It is relevant to mention here that existence of Form B Register has not been disputed. The only contention of the concerned workman is that he got the information of wrong entry of his date of birth in the records when the service excerpts were issued to him in the year 1988.

12. As noticed earlier the date of birth has been mentioned as 1-1-1944 in the statutory Form B Register. It further appears that further documents like I. D. Card containing all relevant details and C. M. P. F. document containing all details including the date of birth of the concerned workman have been prepared on the basis of entries made in the Statutory Form B Register.

13. Much argument has been advanced that the photo copy of the documents have been filed and the original documents have not been produced and the same cannot be relied. To support this contention Ld. Lawyer has filed a decision reported in 2000 L. L. R. page 605. He has submitted that photo copy of the workman should not be

relied. He has further submitted that in this view of the matter it is only stage when service excerpts were issued to the concerned workman he had the opportunity and occasion to raise the dispute and accordingly he raised the dispute.

14. No doubt even at the stage of the argument the original documents have not been placed but while going through the evidence of MW-1 it appears that the original C. M. P. F. register Ext. M-1 was produced in the Court and it was marked as Ext. From his evidence it further appears the original document containing the date of birth as 1-1-1994 was marked as Ext. M-1/1. The original I. D. Register in this respect of this workman was also produced and it was marked as Ext. M-2 and the entries made therein in respect of this workman was marked as Ext. M-2/1. However, the photo copy of the Form B Register is preserved in the office of the management the original of which is lying in the Headquarters to avoid manipulation in the entries. The same was produced and the same was marked as Ext. M-3. Some questions relating to this document have been put in the cross-examination, particularly it may be mentioned that during cross-examination he has stated that he had heard that original Form B Register is lying with Area Office but he had not seen it. This duplicate Form B Register does not bear the certificate to show that it was prepared from the original Form B Register. He cannot say when this duplicate Form B Register was prepared. He has denied the fact that this is a manufactured register. He has also denied the suggestion that in the Form B Register the date of birth of the concerned workman was not recorded as 1-1-1944. It will be relevant to mention that this MW-1 was examined on 16-4-2003 and cross-examined on 18-10-2005. However, from his evidence it appears that original C. M. P. F. register, original, I. D. Register and photo copy of the Form B Register was produced in the court. However from the record it appears that the certified copies of these documents have been substituted. It is not the case that any point of time the original document as mentioned above were not submitted in the Court rather it appears that the above documents were produced and marked as Exhibit. From order dt. 20-5-2003 and 11-6-2003 it appears that the original documents were marked as Ext. M-1 to M-3 and at the request of the management the same were returned to the management after certified copies of those exhibits were filed in this court.

15. It appears that the original Form B Register was not produced in the Court rather photo copy of the Form B Register was produced which was marked Exhibit. The reason has been explained that the same was kept in the Headquarters so that there may not be any manipulation regarding entries. It has been further told that so many cases are filed by different persons and those documents are required during the court proceedings. Hence the same could not be produced. Thus it is not the case that there has been no entries in the document regarding date of birth of the concerned workman rather it appears that in

various documents like statutory Form B Register, CMPF Register and I. D. Card Register there is mention of the date of birth. In the statutory Register there is signature of Bhatu Mondal, the concerned workman. It also appears that in I. D. Card register Ext. M-2 there is LTI. In Ext. M-1 C. M. P. F. register the date of birth has been mentioned as 1-1-1944.

16. As noticed above the original document like C. M. P. F. register and I. D. Card register had been produced at the time of marking exhibits, photo copy of original Form B Register was produced in the Court and the reasons have been explained as to why the original Form B Register has not been produced in the court, The concerned workman has admitted regarding issuance of I. D. Card in the year 1973 which appears to be prepared on the basis of entries made in the statutory Form B Register. Thus in the circumstances it is difficult to accept the contention of the concerned workman that he got knowledge about the entry of his date of birth as 1-1-1944 during the year 1988 when the Service Excerpts were given to him rather the circumstances shows that he was aware of the this fact when the I. D. Card was issued to him.

17. However it appears that when the dispute regarding the date of birth was raised by the concerned workman he was sent for examination by the Medical Board and after examining the concerned workman the Medical Board found that his date of birth recorded in C. M. P. F. record is correct. Ld. Lawyer for the management has submitted that even there was no need for the management to send the concerned workman for medical examination but still step was taken to ensure that the dispute does not remain in future.

18. Ld. Lawyer for the concerned workman has again raised objection on the document regarding medical opinion which is Ext. M-6. He has submitted that only photo copy of this document has been filed. The concerned doctor has not been examined. He has submitted that in fact the concerned workman has never been medically examined.

19. Ld. Lawyer for the management has submitted in fact this concerned workman and 22 other workman were examined by the Medical Board and thereafter the Medical Board has expressed the opinion that the date of birth as recorded in C. M. P. F. register which is 1-1-1944 is correct. He has further submitted that this report also shows that Medical Board had measured height, weight, Blood Pressure, Pulse rate, teeth etc. to come to this finding and this is not a false and forged document. There was also no occasion to do it for the management. He has further submitted that actually the concerned workman was examined by the Medical Board.

20. The evidence of the concerned workman shows that he was asked to attend the Medical Board by the management and accordingly he attended the Medical Board at Kustore Colliery but he was not medically examined by the said Board, for assessment of his age. The

Medical Officer on the contrary obtained his signature on the paper and asked him to leave. He submitted petition that he was not examined medically by the Medical Board and he made prayer for fresh medical examination.

21. The evidence of the concerned workman atleast shows that when he raised dispute of his date of birth the management had asked him to appear before the Medical Board. He has further admitted that he had put signature on paper when he was before the Medical Officer. He has not shown any document to show that he had raised his voice when he was not examined by the Medical Board.

22. In this sequence it may again be mentioned here that the concerned workman has not filed any document to show that he had submitted his school leaving certificate before the management at the time of his regularisation of service or at any other point of time before raising the dispute. Thus it appears that the concerned workman raised the dispute of date of birth after long service of 15 years, when the service excerpts were issued to him. Even the evidence of the concerned workman shows that he has not denied the existence of aforesaid registers and documents of the management rather he has said about only wrong entries in the concerned register.

23. Thus even for the sake of argument if it is presumed that the concerned workman has raised the dispute of date of birth within a reasonable time the matter does not end here. From the Written Statement it appears that he has claimed his date of birth as 1-1-1954 instead of 1-1-1994. It further appears that the reference with regard to date of birth of this concerned workman as 1-1-1954 instead of 1-1-1994 has been referred. Beside the Written Statement the concerned workman in the Service Excerpt has mentioned that in Class VII Certificate his date of birth is 1-1-1954. During the course of evidence in chief he has stated that at the time of his employment he has submitted papers to the management showing his date of birth as 1-1-1954. But while going through Ext. W-2 the said School leaving certificate it appears that the date of birth has been mentioned as 10-2-1954 both in figure and words. It also shows that this certificate has been issued on 11-2-71 whereas he had left the school on 31-12-67. Nothing has been explained as to how the date of birth as TENTH FEBRUARY NINETEEN FIFTY FOUR has been mentioned in the school leaving certificate and as to how he has claimed his date of birth as First January Nineteen fifty four. As noticed earlier there is no document to show that this certificate was presented before the management at the time of regularisation of service. For this reason also I do not find merit in the case of the workman. Accordingly following Award is rendered:—

“The demand of Bihar Colliery Kamgar Union for treating the date of birth of Shri Bhatu Mondal, Mec. Fitter, East Bassuriya Colliery of BCCL as 1-1-1954 instead of 1-1-1944 is not justified. Consequently,

the concerned workman is not entitled to get any relief.”

NAGENDRA KUMAR, Presiding Officer

नई दिल्ली, 18 जनवरी, 2008

का.आ. 235.—भारत के राजपत्र के भाग-II खण्ड 3, उप खण्ड (ii) दिनांक 20 जनवरी 2007 में सं. का. आ. 205 द्वारा प्रकाशित श्रम और रोजगार मंत्रालय की अधिसूचना में निम्नलिखित प्रविष्टियां शामिल की जायेगी, यथा:

क्रम संख्या

47. मैसर्स इन्स्ट्रुमेंटेशन लिमिटेड, पलक्काड, केरल (मैसर्स इन्स्ट्रुमेंटेशन लिमिटेड, पलक्काड, केरल द्वारा नियोजित अनियत और अस्थायी कर्मचारियों सहित)।

48. मैसर्स इण्डियन रेयर अर्थ्स लिमिटेड, उद्योगमण्डल अलुवाय, केरल।

49. मैसर्स भारत डायनामिक्स लिमिटेड, हैदराबाद।

[फा. सं. एस-38014/46/2007-एस एस-1]

एस. डी. जेवियर, अवर सचिव

New Delhi, the 18th January, 2008

S. O. 235.— In the Notification of the Ministry of Labour & Employment published in the Gazette of India, Part-II, Section 3, Sub-Section (ii) dated 20th January, 2007 vide No. S. O. 205, the following entries shall be inserted, namely:—

Sl. No.

47. M/s. Instrumentation Limited, Pallakad, Kerala (including the casual and temporary employees directly employed by M/s. Instrumentation Limited, Pallakad, Kerala)

48. M/s. Indian Rare Earths Limited, Udyogmandal, Aluva, Kerala.

49. M/s. Bharat Dynamics Limited, Hyderabad.

[F. No. S-38014/46/2007-SS-I]

S. D. XAVIER, Under Secy.

नई दिल्ली, 25 जनवरी, 2008

का. आ. 236 — केन्द्रीय सरकार संतुष्ट है कि लोकहित में ऐसा अपेक्षित है कि बैंक नोट मुद्रणालय, देवास में सेवाओं को जिसे औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की प्रथम अनुसूची की प्रविष्टि 22 के अन्तर्गत निर्दिष्ट किया गया है, उक्त अधिनियम के प्रयोजनों के लिए लोक उपयोगी सेवाएं घोषित किया जाना चाहिए।

अतः अब, औद्योगिक विवाद अधिनियम, 1947 (1947 का 4) की धारा 2 के खण्ड (द) के उप-खण्ड (6) द्वारा प्रदत्त

शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार उक्त उद्योग को उक्त अधिनियम के प्रयोजनों के लिए तत्काल प्रभाव से छः मास की कालावधि के लिए लोक उपयोगी सेवा घोषित करती है।

[फा. संख्या एस-11017/1/2006-आई आर (पी एल)]

एस. कृष्णन, अपर सचिव

New Delhi, the 25th January, 2008

S. O. 236.— Whereas the Central Government is satisfied that the public interest requires that the services in the Bank Note Press, Dewas as Public Utility Service for which is covered by item 22 of the First Schedule to the

Industrial Disputes Act, 1947 (14 of 1947), should be declared to be a Public Utility Service for the purpose of the said Act.

Now, therefore, in exercise of the powers conferred by sub-clause (vi) of clause (n) of Section 2 of the Industrial Disputes Act, 1947, the Central Government hereby declares with immediate effect the said industry to be a Public Utility Service for the purpose of the said Act for a period of six months.

[No. S-11017/1/2006-IR (PL)]

S. KRISHNAN, Addl. Secy.